

*Industrial Conciliation and Arbitration Act.* 23 GEO. V. No. 36,

Provided that for the purposes of the first assessment of such additional tax under \**"The Income (Unemployment Relief) Tax Acts, 1930 to 1932,"* such additional tax shall be charged, levied, collected, and payable on eleven-twelfths of the income of the person received during the year ending the thirtieth day of June, one thousand nine hundred and thirty-three, from sources in respect of which such additional tax is payable."

Amendment  
of s. 36.

14. Section thirty-six of the Income (Unemployment Relief) Tax Principal Act is amended by the insertion therein, after the first proviso thereof, of the following proviso, namely:—

"Provided always that after the passing of †*"The Income (Unemployment Relief) Tax Acts Amendment Act of 1932,"* no such Order in Council shall prescribe therein any amendment of this Act whereby the rate of Income (Unemployment Relief) Tax under this Act would thereby be increased."

23 Geo. V.  
No. 36.  
THE  
INDUSTRIAL  
CONCILIA-  
TION AND  
ARBITRA-  
TION ACT OF  
1932.

**An Act to Provide for the Regulation of the Conditions of Industries by Means of Conciliation and Arbitration, to Establish an Industrial Court and Define its Jurisdiction, and for other purposes.**

[ASSENTED TO 6TH JANUARY, 1933.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I.—  
PRELIMINARY.  
Short title  
and  
commence-  
ment of Act.

PART I.—PRELIMINARY.

1. This Act may be cited as "*The Industrial Conciliation and Arbitration Act of 1932,*" and, subject to this Act, shall come into operation on a date to be ‡proclaimed by the Governor in Council in the *Gazette*, which date is hereinafter referred to as the commencement of this Act:

\* See section I of 23 Geo. V. No. 11 (this Act).

† 23 Geo. V. No. 11 (this Act).

‡ Proclamation bringing Act into force from 1st February, 1933, issued 13th January, 1933. (*Gazette*, page 316).

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PART I.—  
PRELIMINARY.

Provided that the provisions of this Act relating to the registration of industrial unions and all provisions necessary for such registration shall come into operation on the passing of this Act.

2. This Act is divided into Parts, as follows :— Division of Act.

PART I.—PRELIMINARY ;

PART II.—INDUSTRIAL COURT ;

PART III.—INDUSTRIAL UNIONS ;

PART IV.—INDUSTRIAL AGREEMENTS ;

PART V.—GOVERNMENT EMPLOYEES ;

PART VI.—BREACHES OF AWARDS AND OTHER OFFENCES ;

PART VII.—MISCELLANEOUS.

3. \**The Industrial Conciliation and Arbitration Acts, 1929 to 1931,*” are repealed, which Acts are herein referred to as the repealed Acts : Repeal and savings.

Provided that, without prejudice to the operation of †*“The Acts Shortening Acts”*—

(i.)—

(a) All awards, orders, and industrial agreements,

(b) All registrations of industrial unions,

(c) All declarations or notifications under ‡*“The Profiteering Prevention Act of 1920,”*

made and registered or purporting to have been made and registered under the powers and authorities of the repealed Acts and in force and operative at the commencement of this Act shall be valid and binding, and until rescinded or superseded under this Act shall continue in force, and shall be deemed to have been made under this Act.

All such awards and orders shall be deemed to have been made by the Industrial Court under this Act.

\* 20 Geo. V. No. 28, *supra*, page 12565 ; Order in Council of 29th May, 1930, *supra*, page 13382 ; 21 Geo. V. No. 42, *supra*, page 13009 ; also 22 Geo. V. No. 50, *supra*, page 13795.

† 31 Vic. No. 6, *supra*, page 15.

‡ 10 Geo. V. No. 33, *supra*, page 9213.

In construing any such award, order, industrial agreement, or registration, references to the registrar shall be read as references to the registrar appointed under this Act, and references to the Industrial Court or Conciliation Commissioner, as the case may be, shall be read as references to the Industrial Court established by this Act.

Matters  
pending.

- (ii.) All matters pending at such commencement under the repealed Acts before the Industrial Court may be continued under this Act, and shall be heard and determined by the Industrial Court established by this Act:

Provided that matters pending at such commencement under the repealed Acts under \**“ The Profiteering Prevention Act of 1920,”* as amended by the repealed Acts, before the Commissioner of Prices, may be continued before the Commissioner of Prices under \**“ The Profiteering Prevention Act of 1920,”* as amended by this Act.

Documents.

- (iii.) All documents relating to any matters or proceedings under the repealed Acts and filed or deposited with the Industrial Court shall be deemed to have been handed over to the Industrial Court and filed with that Court.

Registrar.

- (iv.) The registrar appointed under the repealed Acts and holding office at the commencement of this Act shall be deemed to have been appointed as registrar under this Act.

Industrial  
magistrate.

- (v.) Any industrial magistrate appointed under the repealed Acts and holding office at the commencement of this Act shall be deemed to have been appointed as industrial magistrate under this Act.

Rules of  
Court.

- (vi.) All Rules of Court and regulations made under the repealed Acts and in force at the commencement of this Act shall, so far as is consistent with this Act, be deemed to have been made thereunder.

Declarations.

- (vii.) All declarations of the Court existing at the commencement of this Act shall continue and be in force until the Court otherwise declares.

\* 10 Geo. V. No. 33, *supra*, page 9213.

4. In this Act, unless the context otherwise indicates, the following terms have the meanings respectively set against them, that is to say:—

- “Apprentice”—Any person bound by agreement for the purpose of being instructed in the knowledge and practice of any calling; Apprentice.
- “Award”—Award of the Court made or deemed to have been made under the authority of this Act: the term where necessary includes any variation of an award and an industrial agreement; Award.
- “Industrial Court” or “Court”—The Industrial Court constituted under this Act: the term includes the President or any member thereof; Industrial Court.
- “Calling”—Any calling, craft, business, or other occupation or any section of any calling; Calling.
- “Decision” includes any award, order, or declaration of the Court; Decision.
- “Director of Labour”—The Director of Labour appointed under \**“The Labour Exchanges Act of 1915”*: the term, where necessary, includes any labour agent for the time being deputed under the said Act to act for the Director of Labour; Director of Labour.
- “Employee”—Any employee, whether on wages or piecework rates, or a member of a buttygang: the term includes any person whose usual occupation is that of employee in a calling; the fact that a person is working under a contract for labour only or substantially for labour only, or as lessee of any tools or other implements of production or any vehicle used in the delivery of goods, or as the owner, whether wholly or partly, of any vehicle used in the transport of goods or passengers, shall not in itself prevent such person being held to be an employee; Employee.

In every case where four or more persons, being or alleging themselves to be partners, are working in association in any calling or industry, each of such persons shall be classed

\* 6 Geo. V. No. 6, *supra*, page 6851.

as and be deemed to be an employee; and the partnership firm constituted by them, or alleged so to be, shall be deemed to be the employer of each such person.

Notwithstanding anything to the contrary contained in any Act, no company, corporation, or firm shall proceed to the issue to any of its employees any shares in the company, corporation, or firm concerned until the consent of the Court shall first be had and obtained :

Moreover no deduction from the wages of any employee to whom any such shares shall be issued pursuant to any such consent of the Court shall be made for or in respect of calls on any such shares so issued to any such employee ;

Employer.

“ Employer ”—Any person, company, corporation, firm, or association employing or usually employing one or more employees, whether on behalf of himself or any other person : the term includes every managing director or manager of any company, firm, or association corporate or unincorporate, and every manager for any employer, also local authorities, harbour boards, water authorities, and all other local bodies constituted by or under any Act :

A person carrying on a calling in which employees are usually employed is an employer, notwithstanding that for the time being he does not employ any employee therein ;

Improver.

“ Improver ”—An employee who, by direction of the Court given in his case, is serving at a special wage a period of training with an employer for the purpose of becoming a qualified worker in a calling ;

Industrial agreement.

“ Industrial agreement ”—A subsisting industrial agreement made under the repealed Act or an industrial agreement made under this Act ;

Industrial cause.

“ Industrial cause ” includes an industrial matter and an industrial dispute ;

- “Industrial demarcation”—The determination of the claim of any one class of employees to do any work to the exclusion of other employees ; Industrial demarcation.
- “Industrial dispute”—Any dispute as to any industrial matter ; Industrial dispute.
- “Industrial inspector”—An industrial inspector appointed under this Act or under the repealed Acts ; Industrial inspector.
- “Industrial magistrate”—An industrial magistrate appointed under this Act or under the repealed Acts ; Industrial magistrate.
- “Industrial matters”—Matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or employees, or of persons who have been or intend or propose to be or may become employers or employees not involving questions which are the subject of proceedings for an indictable offence ; Industrial matters.

Without limiting the ordinary meaning of this definition, the term includes all or any matters relating to—

- (a) The wages, allowances, or remuneration of any persons employed or to be employed, including work during ordinary working hours and overtime, and (subject to this Act), on holidays and for other special work ; and including the questions whether piecework shall be allowed, and whether employees shall be granted an annual leave or holidays upon full pay, and whether and under what conditions employees may board and lodge with their employers, and whether monetary allowances shall be made by employers to employees in respect of standing back or waiting time imposed by the conditions of the employer's enterprise or because of intermittency of industrial operations or other causes ; and what length of notice, if any, shall be given by an employer or employee to the other

- before discontinuing or quitting service or employment, and what amount of wages, if any, shall be paid or may be deducted, as the case may be, in lieu of such notice ;
- (b) Subject to this Act, the hours of employment, the lengths of time to be worked to entitle employees to any given wages, allowances, remuneration, or prices, and what times shall be regarded as overtime and including claims to restrict work before or after certain hours, and the sex, age, qualification, or status of employees, and the mode, terms, and conditions of employment or non-employment, including the question whether any persons shall be disqualified for employment, and including claims to have protective appliances, clothing, hot or cold water, and sanitary and bathing accommodation provided for the use of employees, and the fixing of standards of normal temperatures and atmospheric purity in working places below or above ground, and the prescribing of shorter hours, higher wages, or other conditions in respect of persons employed under abnormal conditions or in abnormal working places, and the determination of what are abnormal conditions or abnormal working places ;
- (c) The employment of children, young workers, or improvers, or of any person or persons or class of persons, including the disqualification of any persons for employment by reason of sex or age or disease, or a claim to dismiss or to refuse to employ any particular person or persons or class of persons, or any question whether any particular person or persons or class of persons ought (having regard to public interests, and notwithstanding the common law rights of employers or employees and notwithstanding the provisions of any Act, or any rules or regulations authorised thereby), to be continued or reinstated in the employment of any particular employer; the number or proportionate number of

- aged or infirm workers, apprentices, and improvers that may be employed by an employer, and the lowest prices or rates payable to them ;
- (d) The right to dismiss or to refuse to employ or reinstate in employment any particular person or class of persons in any calling ;
  - (e) Any custom or usage, either general or in any particular calling, industry, enterprise, or locality ;
  - (f) The interpretation and enforcement of an industrial agreement or award ;
  - (g) Any matter which is included in an industrial agreement or which has caused or, in the opinion of the Court, is likely to cause disagreement or friction between employers and employees ;
  - (h) Generally all questions as to what is fair and right (having regard to the interests of the persons immediately concerned and of the community as a whole), according to the standard of the average good employer and the average competent and honest employee in all matters pertaining to the relations of employers and employees, whether or not the relationship of employer and employee exists or existed at or before the time of any application to the Court or at the time of the making or enforcement of any decision by the Court ;
  - (i) The regulation of the relations between employers and employees, or between employees and employees, and for this purpose the imposing of conditions on the conduct of any trade, business, industry, or enterprise, and the provision of benefits to persons engaged therein ;
  - (j) Trusts, combinations, and agreements in restraint of trade ;
  - (k) Any question of industrial demarcation ;
  - (l) Any matter, whether industrial or not, which in the opinion of the Court has been, is, or may be a cause or contributory cause of a strike or lock-out ;



Industrial union.	“Industrial union”—An industrial union registered as an industrial union under this Act ;
Lock-out.	<p>“Lock-out”—The act of an employer in closing his place of business or suspending or discontinuing his business or any branch thereof, or a refusal or failure by an employer to continue to employ any number of his employees, with intent—</p> <p>(a) To compel or induce any employees to agree to terms of employment or comply with any demands made upon them by the said or any other employer ; or</p> <p>(b) To cause loss or inconvenience to his employees or any of them ; or</p> <p>(c) To incite, instigate, aid, abet, or procure any other lock-out ; or</p> <p>(d) To assist any other employer to compel or induce any employees to agree to terms of employment or comply with any demands made by him ;</p>
Member.	“Member”—A member of the Court: the term includes the President of the Court ;
Minister.	“Minister”—The Secretary for Labour and Industry or other Minister of the Crown for the time being charged with the administration of this Act ;
Prescribed.	“Prescribed ”—Prescribed by this Act ;
President.	“President ”—The President of the Court: the term also includes any person acting as President ;
Registrar.	“Registrar”—The industrial registrar appointed under this Act : the term includes any deputy or assistant industrial registrar so appointed ;
Regulations.	“Regulations ”—Regulations made under this Act ;
Repealed Acts.	“Repealed Acts ”—*“ <i>The Industrial Conciliation and Arbitration Acts, 1929 to 1931,</i> ” including any Order in Council made or purporting to

\* 20 Geo. V. No. 28, *supra*, page 12565 ; Order in Council of 29th May, 1930, *supra*, page 13382 ; 21 Geo. V. No. 42, *supra*, page 13009 ; also 22 Geo. V. No. 50, *supra*, page 13795.

be made under such Acts, whether in addition to or amendment of or in modification of such Acts.;

“Rules of Court”—Rules made by the Court under this Act ; Rules of Court.

“Strike”—The act of two or more employees, who are or have been in the employment either of the same employer or different employers, in discontinuing their employment, whether wholly or partially, or in ceasing to work, or in refusing or failing to continue to work therein, or in breaking their contracts of service, or in refusing or failing after any such discontinuance or cessation of work to resume work or return to their employment, or wilfully delaying or obstructing the progress of work by what is known as the “go-slow” method of strike, the said discontinuance, cessation, breach, refusal, or failure being due to or in pursuance of any combination, agreement, or understanding, whether expressed or implied, entered into by the said employees or any of them, with intent— Strike.

- (a) To compel or induce any such employer to agree to terms of employment, or to employ or cease to employ any person or class of persons, or to comply with any demands made by the employees or any of them or by any other employees ; or
- (b) To cause loss or inconvenience to any such employer in the conduct of his business ; or
- (c) To incite, instigate, aid, abet, or procure any other strike ; or
- (d) To assist employees in the employment of any other employer to compel or induce that employer to agree to terms of employment, or to employ or cease to employ any person or class of persons, or to comply with any demands made by any employees ;

“This Act” includes Orders in Council, Rules of Court, and regulations made under this Act ; Th

PART I.—  
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worker.

“Young worker”—Any person, male or female (other than an apprentice or an improver) under twenty-one years of age, who receives a lower wages price or rate than that fixed by any award for ordinary adult employees.

Application  
of Act.

5. Save as next hereinafter provided, this Act applies to all callings whatsoever and to all persons whomsoever :

Provided that—

- (i.) Nothing in this Act applies to any State child within the meaning of \**“The State Children Acts, 1911 to 1928”*;
- (ii.) The Governor in Council may from time to time, by Order in Council, declare that any person or class of persons shall be excepted from the operation of this Act, and thereupon while such Order remains unrevoked this Act shall not apply to any such persons :

Provided that any award applying to any such person or class of persons so excepted from the operation of this Act shall to the extent to which it so applies be deemed to have been repealed.

PART II.—  
INDUSTRIAL  
COURT.Constitution  
of Industrial  
Court.

## PART II.—INDUSTRIAL COURT.

6. (1.) There is hereby established a Court, to be called the “Industrial Court,” consisting of three persons appointed from time to time by the Governor in Council by commission in His Majesty’s name. One of such persons shall at the date of his appointment be a Judge of the Supreme Court of Queensland. Such Judge of the Supreme Court as aforesaid shall be the President of the Court and, notwithstanding the provisions of any Act to the contrary, continue to hold and exercise the office of such Judge of the Supreme Court.

Disabilities.

(2.) A person appointed to be a member of the Court shall not be capable of being a member of the Executive Council or of the Legislative Assembly, and shall not act as a director or auditor or in any other capacity take part in the management of any bank, joint-stock company, trade, or business.

\* 2 Geo. V. No. 11 and amending Acts, *supra*, page 5076. (See Alphabetical Table.)

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(3.) Each member of the Court, other than the President, shall, during continuance in office, receive an annual salary equal to the salary of a Puisne Judge of the Supreme Court : Salary.

Provided that the Judge of the Supreme Court who under this Act is appointed to be President of the Court shall perform the functions of President under this Act without extra remuneration over and above the emoluments of his office as such Judge.

(4.) The President shall be appointed for such term of years as the Governor in Council may fix and may be reappointed from time to time for any further term of years fixed by the Governor in Council. Each member other than the President shall be appointed for a term of seven years, but may be reappointed for a further term not exceeding seven years : Term of  
office.

Provided that the President and each other member shall retire from office upon attaining the age of seventy years notwithstanding that he has not then remained in office for the term then current of his appointment.

If the term of office of any member expires during the continuance of any investigation or any matter on which he has entered as member, the Governor in Council may (and from time to time if necessary) without reappointment continue him in office for such time as is necessary to enable him to complete such investigation or matter.

(5.) Every member shall hold office during good behaviour and shall not be removed therefrom unless an address praying for such removal shall be presented to the Governor by the Legislative Assembly. Tenure.

(6.) In case of the illness, inability, or absence of any member other than the President, the Governor in Council may appoint some other person to act as the deputy of such member during such illness, inability, or absence, and every such person shall, while he acts as such deputy, have all the powers and perform all the duties of and be subject to the same disabilities as such member. Appointment  
of deputy.

In case of the illness or absence of the President the Governor in Council may appoint a Judge of the Supreme Court or some person qualified to be appointed a Judge

of the Supreme Court to act as President, and notwithstanding any Act to the contrary, the Judge of the Supreme Court or person qualified to be appointed a Judge of the Supreme Court so appointed shall act as President of the Court.

Such Judge or person so appointed, whilst acting in the capacity of President, shall have all the powers and perform all the duties of a member and President of the Court during the illness or absence as aforesaid of the President.

Judicial  
functions.

(7.) The President or any other member sitting alone shall constitute the Court, and, except as in this Act or any Rules of Court otherwise provided, all the powers and jurisdiction of the Court may be exercised by the President or any other member sitting or acting alone.

If more than one member is sitting at the same time in the exercise of the judicial functions of the Court each such member shall constitute the Court.

The Court shall be a superior Court of Record.

Seal.

(8.) The Court shall have an official seal, which shall be judicially noticed.

Jurisdiction  
of the Court.

7. (1.) The Court shall have all the powers and jurisdiction of the Supreme Court in addition to the powers and jurisdiction conferred by this Act, and may hear and determine all questions arising under this Act, whether of law or fact, including any question which may be brought before it or which it may deem it expedient to hear and determine for the purpose of regulating any calling or callings, and any question arising out of an industrial matter or involving the determination of the rights and duties of any person or industrial union in respect of an industrial matter, and any question which it may deem expedient to hear and determine in respect of an industrial matter, and any industrial dispute as to which a member has held a conference under this Act, and as to which no agreement has been reached, and which a member has thereupon referred to the Court, and more particularly, but without limiting the generality of the above provisions, shall have full powers and jurisdiction—

(i.) Upon reference by an industrial union or employer or any twenty employees (not being members of an industrial union of employees

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and not covered by an award) in any calling, or the Minister or of its own motion, to regulate the conditions of any calling or callings by an award ;

- (ii.) On the application of any person interested or of its own motion, or by direction of the Minister, to hold an inquiry into or relating to any industrial matter and report the result of such inquiry to the Minister ;
- (iii.) At the direction of the Minister, or on the application of an industrial union or an employer, to codify into one award, subject to such amendments as it may deem expedient to make, all awards binding or affecting any employer or class or section of a class of employers in any calling or callings, or the members of an industrial union employed by the same employer or class or section of employers when such employer or class or section of employers or such members is or are subject to more than one award ;
- (iv.) To define and declare the relative rights and mutual duties of employers and employees according to what in the opinion of the Court should be the standard of fair dealing between an average good employer and a competent and honest employee ;

(2.) Nothing in this Act shall be interpreted to limit by implication the jurisdiction conferred upon the Court by this Act.

(3.) The Court, shall, as regards every industrial cause, have power to make any order or award irrespective of any specific relief claimed or applied for by any party and to give any direction in pursuance of the hearing or determination.

(4.) The Court in any proceedings before it may by order or direction do anything which it is authorised by this Act to do by an award.

(5.) In all cases where the Court is constituted by the President sitting with another member or members, the decision of the President upon any question arising as to the jurisdiction of the Court or as to the construction of any of the provisions of this Act shall prevail and be the decision of the Court.

(6.) The Director of the Bureau of Industry constituted under \**"The Bureau of Industry Act of 1932"* shall, on being requested by the Court so to do, furnish the Court with such statistical information which the Court may require in and for the purposes of this Act.

Provisions  
as to  
awards.

8. (1.) Without limiting the generality of the powers of the Court, the Court may make an award with reference to a calling or callings—

(i.) Subject to this Act, fixing the quantum of work or service to be done, and the lowest prices for their work or rates of wages payable to employees other than aged or infirm workers :

Provided that in fixing rates of wages in any calling—

(a) The same wage shall be paid to persons of either sex performing the same work or producing the same return of profit to their employer ;

(b) The Court shall be entitled to consider the prosperity of the calling and the value of an employee's labour to his employer in addition to the standard of living ;

(ii.) Subject to this Act, fixing the number of hours and the time to be worked in order to entitle employees to the prices or wages so fixed ;

(iii.) Subject to this Act, fixing the lowest rates for overtime and holidays and other special work, including allowances as compensation for overtime, holidays, and other special work ;

(iv.) Subject to this Act, fixing the number or proportionate number of women to men, of young workers to adult workers, and of apprentices and improvers to journeymen in any calling ; and fixing in respect of women workers, young workers, apprentices, and improvers in a calling the quantum of work to be done and the number of hours and the times to be worked by them, and the lowest

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prices and rates payable to them, for ordinary time, overtime, and holidays notwithstanding in the case of apprentices the existence of current indentures or contracts of apprenticeship: and provided that, in the case of apprentices, the increase in such prices or rates fixed for the years of the apprenticeship may be payable contingently upon the passing by the apprentice of any prescribed tests for the obtaining by him of any prescribed certificates of tuition or competency;

- (v.) Rescinding or varying any decision, direction, or industrial agreement;
- (vi.) Abrogating or varying contracts for labour, including contracts of apprenticeship, made at any time before or after the commencement of this Act, subject to such conditions and such exemptions as the Court thinks just;
- (vii.) Giving such retrospective effect as the Court may consider right, fair, and honest, or as may be consented to by the parties to the whole or any part of its award: Provided that (except with the consent of the parties) the retrospective effect aforesaid shall not be made to operate prior to the date when the Court first took cognizance of the matter in question;
- (viii.) Modifying or altering the early-closing provisions or the weekly half-holiday provisions of the Acts relating to factories and shops to any extent deemed proper or convenient, and in particular so that any shop, business, or person to which or to whom such provisions are applicable may be wholly or partly relieved of the incidence of such provisions; and so that complaint for offences against any of the said Acts or for breaches of any regulation made thereunder may be laid within a period not exceeding six months from the commission of any such offence; and declaring that the place in which any calling is carried on shall be a shop of a certain class within the meaning



of the said Acts, to the intent that the statutory provisions in their original or any modified or altered form which to the Court may seem expedient shall apply to such calling and every person employed in or in connection therewith, and to the further intent that where an award fixes times at which employees shall commence or cease work in shops of that class such shops shall, whether employees are or are not employed therein, be opened or closed at such times as are fixed by such award; and from time to time revoking in whole or in part any such modification, alteration, or declaration, whereupon and pending the making of further awards or orders the statutory provisions shall revive and again operate if the revocation is complete without modification, alteration, or extension of any kind, or, if the revocation is partial, subject to such conditions and limitations as may be expressed;

- (ix.) Ordering that where an award has fixed a starting time and a ceasing time for employees engaged in any calling in or in connection with any workshop, factory, or warehouse, it shall not be lawful for any person to work at such calling outside of such fixed hours or to engage or be engaged outside such hours in or in connection with the production for sale of any articles ordinarily produced in such calling, subject however to such exemption as the Court in such award may determine;
- (x.) Directing that a copy of an award or industrial agreement be exhibited in a conspicuous and convenient place on the premises of any employer affected thereby;
- (xi.) And generally dealing with, determining, and regulating any industrial matter.

In respect of an award dealing with transport services, the Court shall have regard to public safety and convenience.

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(2.) Where it is mutually agreed by the parties concerned or considered advisable by the Court that preference be granted either generally or to any particular union or organisation, such preference shall be granted subject to such conditions as the Court may approve. Preference.

9. (1.) The Court may from time to time declare general rulings relating to any industrial matter for the guidance of suitors before it, and in order to prevent a multiplication of inquiries into the same matter. Power to  
declare  
general  
rulings.

(2.) Such declarations shall be *primâ facie* binding as decisions of the Court upon the Court or industrial magistrate. Which shall  
be *primâ  
facie*  
binding.

(3.) Without limiting the generality of the power conferred by the two immediately preceding subsections, the Court may from time to time make declarations as to— Instances of  
such rulings.

- (a) The cost of living ;
- (b) The standard of living ;
- (c) The basic wage for males and females ;
- (d) The standard hours :

Provided that—

- (i.) For the purpose of making any declaration under paragraphs (c) and (d) of this subsection three, the Court shall be constituted by the President and two members ;
- (ii.) The basic wage of an adult male employee shall be not less than is sufficient to maintain a well-conducted employee of average health, strength, and competence and his wife and a family of three children in a fair and average standard of comfort, having regard to the conditions of living prevailing among employees in the calling in respect of which such basic wage is fixed, and provided that in fixing such basic wage the earnings of the children or wife of such employee shall not be taken into account ;
- (iii.) The basic wage of an adult female employee shall not be less than is sufficient to enable her to support herself in a fair and

average standard of comfort, having regard to the nature of her duties and to the conditions of living prevailing among female employees in the calling in respect of which such basic wage is fixed ;

- (iv.) The Court shall, in the matter of making declarations in regard to the basic wage or standard hours, take into consideration the probable economic effect of such declaration in relation to the community in general and the probable economic effect thereof upon industry or any industry or industries concerned.

Adjustment  
of awards.

(4.) Upon a declaration as to the basic wage during the currency of an award, the terms of such award affecting rates of pay shall be varied to accord with such declaration by the registrar (subject to an appeal to the Court) and such variation of the award shall, upon publication in the *Gazette*, have effect as an award from the date of publication.

Directions  
to be  
observed by  
the Court.

**10.** (1.) Save as hereinafter provided, every award shall be deemed to contain provisions to the following effect, or provisions not less favourable to employees, save in the callings mentioned in the provisos to paragraph (a) hereof :—

- (a) Employees shall not be worked on more than six out of seven consecutive days, and the time worked by them within any period of six consecutive days shall not exceed forty-four hours ; the time worked by employees on each day shall not exceed eight hours, except in those callings where a short day in each week or a working week of five days is mutually adopted by the employers and employees, in which latter cases the time worked on five days of the week may be proportionately greater than eight hours per day in order to allow forty-four hours to be worked during not more than six consecutive days :

Provided that (notwithstanding the foregoing provisions in paragraph (a) hereof) for employees in the callings following, namely, railway gatekeepers in the employment of

the Commissioner for Railways, employees on coastal, river, and bay vessels, musterers and drovers of stock, employees on farms engaged in feeding or attending to stock or such other necessary services as the Court in its discretion may determine, and employees engaged in domestic service, the Court in its discretion may determine the maximum number of working days and hours in any week :

And provided further that (notwithstanding the foregoing provisions in paragraph (a) hereof) the Court shall not be required to observe the direction contained in the paragraph (a) as aforesaid if it is of opinion that in respect of any industry or calling (whether the industry or calling immediately concerned or some other industry or calling) substantial unemployment will result or that the community in general will be prejudicially affected by the observance by the Court of such direction :

Provided that in no case where such direction is not observed shall the time worked by any employee within any period of six consecutive days exceed forty-eight hours :

Provided that the provisions of the aforesaid paragraph (a) shall come into operation on the first day of July, one thousand nine hundred and thirty three :

Provided further that—

- (b) The working time of employees in underground occupations, or occupations in which the conditions as to temperature, ventilation, lighting, and limitation of approaches are similar to those obtaining in underground occupations, shall include permitted intermissions for rest and meals, shall be reckoned from bank to bank. Moreover, the Court shall have jurisdiction to order the employer to provide and operate suitable ventilating appliances where the temperature in mine workings is unduly high, and to provide that the ventilation shall be adequate to

maintain a reasonable limit of humidity and to fix the maximum daily working hours at such lesser number than eight as the Court may think fit: provided that in all cases the employee shall be paid as for a full shift or half-shift as the case may be;

- (c) Overtime, that is, time worked in excess of the times or hours above limited, or before or after the fixed or recognised times of starting or leaving off work on any day in any calling, may be permitted by the terms of any award or industrial agreement at a rate of payment therefor of not less than double time in any calling in or in connection with which more than one shift per day is worked, or not less than time and a-half in any other calling;
- (d) Notwithstanding the terms of any current award or industrial agreement, the Court may by award from time to time, for the purpose of distributing the work available in a calling so as to relieve unemployment, or for any other purpose which appears to the Court to be good and sufficient, prohibit or restrict to any extent the working of overtime in any calling;
- (e) Subject to the last preceding paragraph, where in any calling the ordinary time of work is at the commencement of this Act fixed by award or industrial agreement or by well-established practice in the calling, such time shall not be exceeded in any award or industrial agreement made after such commencement in respect of such calling.

Payment  
for certain  
holidays.

(2.) Save as hereinafter provided, every award shall be deemed to contain provisions to the following effect, or provisions not less favourable to employees:—

All work done by any employees on Good Friday, Labour Day (the first Monday in May or other day appointed under \**"The Holidays Act of 1912"* to be kept in place of that holiday), Christmas Day, and the twenty-fifth day of April (Anzac Day), or any day appointed under \**"The Holidays Act of 1912"* to be kept in place of any such holiday, shall be paid for

\* 3 Geo. V. No. 17, *supra*, page 5463.

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at the rate of double time. All work done on the first day of January, the twenty-sixth day of January, Easter Monday, the birthday of the Sovereign, and Boxing Day, or any day appointed under \**"The Holidays Act of 1912"* to be kept in place of any such holiday, shall be paid for at the rate of time and a-half.

For the purposes of this provision, where the rate of wages is a weekly rate "double time" shall mean one day's wages in addition to the prescribed weekly rate, or *pro rata* if there is more or less than a day.

For the purposes of this provision, where the rate of wages is a weekly rate, "time and a-half" shall mean one half-day's wages in addition to the prescribed weekly rate, or *pro rata* if there is more or less than a day.

Nothing in these provisions shall have reference to Sunday work.

Nothing in this section shall prevent the Court from granting the equivalent of annual leave on full pay in lieu of extra payment for work done on the aforesaid holidays.

(3.) Application may be made at any time during the currency of an award in force at the commencement of this Act to make such variations or amendments as are necessary to bring it into conformity with or to give effect to this section. Applications to vary existing awards.

(4.) Any award or industrial agreement made after the commencement of this Act in which the directions or provisions of this section have not been observed shall not be enforceable. Where award or industrial agreement is not in accordance with this section.

The Court shall amend such award or agreement so that the same shall be in accordance with such directions and provisions.

(5.) Any employer who with a view to evading the provisions of this Act or any award thereunder in reference to the granting to an employee employed on a weekly basis any holiday or annual leave due to such employee, terminates the services of any such employee, shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding one hundred pounds.

11. Notwithstanding anything contained in this Act or in any award or industrial agreement to the contrary, any employer may apply to the Court or to an Rationing of work.

industrial magistrate for permission, under circumstances as set forth hereunder, to divide the work available to employees among his employees and to employ such employees on part time only.

Such permission as aforesaid may be granted if the Court or industrial magistrate is satisfied that the approval of the application of the employer will obviate the necessity of the retrenchment of any of his employees, or will otherwise relieve unemployment or prevent further unemployment, or is in the best interests of the employer and employees concerned.

The permission as aforesaid (if granted) shall be in writing signed by the Court or a member thereof or industrial magistrate, as the case may be, and shall specify therein the time within which such permission shall operate: Provided that application for renewal of such permission may be made by the employer from time to time.

Such permission shall set forth therein the minimum ordinary working hours which the employer may work his employees in any week, or may provide for the laying-off of employees for such periods of time as the circumstances may warrant and as prescribed in such permission, or may provide therein such general provisions, terms, conditions, and stipulations as shall be calculated to obviate the necessity of the retrenchment of the employees of the employer, or as shall be calculated to relieve unemployment or prevent further unemployment, or as shall be calculated to be in the best interests of the employer and employees concerned.

Where in respect of any such permission, the employee works for part of a week, the wage payable to such employee in respect of such part of a week shall not be less than a wage which bears the same proportion to the weekly wage prescribed in the award or industrial agreement concerned as the time worked by the employee in the week bears to the ordinary weekly working hours prescribed in such award or industrial agreement.

On the consideration of any such application the Court or industrial magistrate shall take into consideration the views of the employees concerned.

A copy of any such permission granted as aforesaid shall be forwarded by the Court or industrial magistrate to the registrar, who shall record the same accordingly and notify the union concerned.

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12. Subject to the provisions of \**The Apprentices and Minors Act of 1929*," or any Act in substitution therefor, the Court shall have jurisdiction in respect of minors under twenty-one years of age. Apprentices and young workers.

13. Notwithstanding anything to the contrary contained in this Act, the following provision shall apply in respect of any junior or minor (being in each case a person under twenty-one years of age) not being subject to the jurisdiction of \**The Apprentices and Minors Act of 1929*," namely:— Juniors and minors.

The Court may in any award prescribe the rates of wages to be paid to juniors or minors, which rates may be on a progressive scale based on the rates of wages payable to adult workers in the same calling, and the Court shall in the making of any such award take into consideration the age and/or experience of such juniors or minors.

14. The Court may at any time, by general rule or special order, remit to an industrial magistrate any proceedings for the recovery or enforcement of penalties incurred under this Act, or of claims by a member of an industrial union or by any employee for arrears of wages due to him under any award or industrial agreement, and such magistrate is hereby authorised to hear the same in the exercise of his summary jurisdiction: Power to remit, &c.

Provided that no penalty incurred by a member of an industrial union shall be enforced against the industrial union of which such person is a member except by order of the Court.

15. When the Court makes an award for an industry embracing more than one calling, the Court shall (unless in the exceptional circumstances of any particular case the Court thinks otherwise and so expressly declares) in such award prescribe at least such wages rates for employees whose calling is already governed by another award as are equal to the wages rates fixed by that award. Wages rates in callings in an industry where such callings are under another award.

16. (1.) An appeal shall lie to the Court from any decision or finding of an industrial magistrate acting under the powers conferred by this Act. Appeal from industrial magistrate.

\* 20 Geo. V. No. 37, *supra*, page 12533.



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*Industrial Conciliation and Arbitration Act.* 23 GEO. V. No. 36,

Appeals to  
be by way of  
rehearing.

(2.) Every appeal under this Act shall be by way of rehearing, and the Court may affirm, reverse, or modify the decision appealed against, and may give such decision and direction and make such order and award as ought to have been given or made in the first instance, and may remit any matter arising out of or involved in the case to the industrial magistrate, with or without directions and whether for report to the Court or for determination.

Jurisdiction  
of the Court  
exclusive.

17. The jurisdiction of the Court in all industrial causes, whether original or by appeal, conferred on it by this Act shall be exclusive.

Form, effect,  
and  
continuance  
of award.

18. (1.) The award of the Court in any industrial cause shall be framed in such a manner as to best express the decision of the Court and to avoid unnecessary technicality, and shall, subject to any variation ordered by the Court, take effect and have the force of law within the locality specified in the award, and continue in force for a period to be specified in the award not exceeding twelve months from the date thereof unless sooner rescinded or varied.

(2.) After the expiration of the period so specified the award shall, unless the Court otherwise orders, continue in force until a new award has been made.

On whom  
award is to  
be binding.

19. An award shall be binding on—

- (a) All parties to the industrial cause who appear or are represented before the Court ; and
- (b) All parties who have been summoned to appear before the Court as parties to the cause, whether they have appeared in answer to the summons or not, unless the Court is of opinion that they were improperly summoned before it as parties ; and
- (c) All industrial unions connected with the calling or callings to which the award applies ; and
- (d) All members of industrial unions bound by the award ; and
- (e) All employers and employees in the locality to which the award applies in the calling or callings to which it applies ; and

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- (f) All persons who, whether as employers or employees, are engaged in such calling or callings in that locality at any time while the award remains in force.

**20.** (1.) Subject to this Act, the Court may rescind or vary any industrial agreement or decision, recommendation, direction, appointment, reference, or other act made or done by it, and may reopen any reference or proceeding.

Court may rescind or vary any of its acts.

But no decision shall be varied or reopened except on the application of the Crown or of a party thereto, or of a person or industrial union bound thereby, or affected or aggrieved by the decision or claiming to be so affected or aggrieved.

(2.) Where any recommendation of the Court has been acted on and the Court afterwards rescinds or varies the same, it shall be in the discretion of the Governor in Council either to cancel any action taken by the Governor in Council in pursuance of such recommendation or to vary it to accord with the rescission or variation of the Court.

(3.) Failure to give notice to any person of all or any of the proceedings leading up to any award binding upon him shall not invalidate or be deemed to have invalidated any award, but such person, if he considers himself prejudiced by such award, may apply to the Court to vary the same, and the Court may vary the same accordingly in such manner and to such extent as it thinks proper, and may give retrospective operation to any such variance of such award.

**21.** (1.) Any member of the Court may, if he thinks fit, and shall on the application of any party bound by any decision, award, or order, or interested in any proceeding before him, at any stage and upon such terms as he thinks proper, state a case in writing for the opinion of the full bench, consisting of such members of the Court as the President shall request, upon any question arising in such proceeding or upon any matter pending before such member.

Case for opinion of full bench.

Such full bench shall hear and determine the question or matter, and remit the case with its decision thereon to such member, and may make such order as to costs as it thinks fit. Such member shall give effect to such

decision. A decision of the full bench given under the foregoing provision shall only be rescinded, varied, or reopened by the full bench upon an application in that behalf.

Decision of  
Court  
to be final.

(2.) Save as provided by the last preceding section and by subsection one hereof, every decision of the Court shall be final and conclusive, and shall not be impeachable for an informality or want of form, or be appealed against, reviewed, quashed, or in any way called in question in any Court on any account whatsoever.

(3.) Proceedings in the Court shall not be removable by certiorari, and no writ of prohibition shall be issued, and no injunction or mandamus shall be granted by any Court other than the Industrial Court in respect of or to restrain proceedings under any award, order, proceedings, or direction relating to any industrial matter or any other matter which, on the face of the proceedings, appears to be or to relate to an industrial matter or which is found by the Court to be an industrial matter.

(4.) The validity of any decision of or proceedings before an industrial magistrate shall not be challenged except as provided by this Act.

Informality  
not to  
vitate  
award.

(5.) An award or order of the Court shall not be void or in any way vitiated merely because of any informality or error of form or non-compliance with this Act.

Member or  
industrial  
magistrate  
to act  
whenever his  
mediation  
desirable.

**22.** A member of the Court or industrial magistrate may act as a mediator in any industrial cause, whether or not it is within the jurisdiction of the Court or industrial magistrate, in all cases in which it appears to him that his mediation is desirable in the public interest.

Member may  
convene  
compulsory  
conference.

**23.** (1.) A member of the Court may, whenever in his opinion it is desirable for the purpose of preventing or settling an industrial dispute, summon any person to attend, at a time and place specified in the summons, at a conference presided over by himself.

(2.) Any person may be so summoned, notwithstanding that he is not connected with the dispute, if such member thinks that such person's presence at the conference is likely to conduce to the prevention or settlement of the dispute.

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(3.) Any person so summoned shall attend the conference and continue his attendance thereat as directed by such member, and in default shall be guilty of contempt of court, and, by order of such member, shall be liable to a penalty not exceeding one hundred pounds.

(4.) The conference may be held partly or wholly in public or in private, at the discretion of such member.

(5.) Any person so summoned who attends pursuant to the summons and continues his attendance as directed by such member, shall be entitled to be paid by the Crown such (if any) amount as such member certifies to be a reasonable recompense for his expenses and loss of time.

(6.) The Court may, either by general or special order, confer on an industrial magistrate all the powers of holding such conferences and such powers of summoning persons to attend at such conferences before such industrial magistrate as are conferred on a member of the Court by this section.

24. (1.) In the course of the hearing, inquiry, or investigation (including any compulsory conference summoned by a member of the Court as hereinbefore provided) of any industrial cause, the Court shall make all such suggestions and do all such things as appear to it to be right and proper for dealing with the cause or bringing about the settlement of the cause by amicable agreement.

(2.) If an agreement is arrived at, a memorandum of its terms shall be made in writing and certified by such member, and such memorandum shall be filed in the office of the registrar, and, unless otherwise ordered and subject as may be directed by the Court, shall have the same effect as and be deemed to be an award of the Court.

25. (1.) The Governor in Council may appoint an industrial registrar and one or more assistant industrial registrars, who shall have the prescribed powers and duties.

(2.) The Governor in Council may appoint any person to act as a deputy for the registrar while such registrar is absent from his duties for any reason; and every such deputy shall while so acting have the same jurisdiction and powers and perform the same duties as if he were the registrar.

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COURT.*Industrial Conciliation and Arbitration Act.* 23 GEO. V. No. 36,Industrial  
magistrates.

**26.** The Governor in Council may from time to time appoint industrial magistrates, who shall throughout the State have the jurisdiction and powers conferred by this Act on an industrial magistrate, and in the exercise of such jurisdiction may do alone whatever might be done by a police magistrate sitting in petty sessions.

The industrial magistrate for all purposes of this Act and any other Act (including the repealed Acts), in respect of which the industrial magistrate has jurisdiction, is and always has been a Court of Record.

Powers and  
procedure of  
the Court.  
Schedule.

**27.** The provisions set forth in the Schedule to this Act shall be applicable in all matters with respect to which the Court has jurisdiction, whether original or by way of appeal, and shall be observed.

Such provisions may from time to time be amended or added to by the Governor in Council by Order in Council published in the *Gazette*. Such provisions shall be laid before Parliament within fourteen days after such publication if Parliament is in session; and, if not, then within fourteen days after the commencement of the next session.

If Parliament passes a resolution disallowing any such provision, of which resolution notice has been given at any time within fourteen sitting days of Parliament after such provision has been laid before it, such provision shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

PART III.—  
INDUSTRIAL  
UNIONS.

## PART III.—INDUSTRIAL UNIONS.

Registration  
of  
industrial  
union.

**28.** (1.) The registrar may, on application made as prescribed, register as an industrial union under this Act any industrial association or trade union of employees.

On such registration the industrial association or trade union shall be an industrial union until such registration is duly cancelled.

(2.) Such application shall be in the form prescribed, and shall be signed by the secretary and the president or chairman of the association or union.

Notice of such application shall be published as prescribed.

(3.) Upon an application to be registered as an industrial union, the registrar may require such evidence as to him seems fit, either oral or on affidavit—

- (a) Of the authority of the person signing the form of application ;
- (b) That the persons on whose behalf the application is made should not in the public interest or for other good reason join an industrial union which has already been registered ;
- (c) That the rules of the applicant association or union and their administration provide reasonable facilities for the admission of new members, and do not impose unreasonable conditions upon the continuance of their membership, and are not in any other way tyrannical or oppressive ;
- (d) That the registration of the applicants will not unjustly affect any other industrial union ;
- (e) That the application is *bona fide* in the interests of employees, and not in the interests of an employer or employers.

(4.) Within the prescribed time and in the prescribed manner any industrial union or employer may, by notice to the registrar, oppose such application.

(5.) The registrar shall fix a day for considering any objections on any of the above grounds to the granting of the application, and shall notify the same as prescribed.

(6.) No branch of a trade union shall be registered unless it is a *bona fide* branch of sufficient importance to be registered separately.

(7.) No alteration of any rule of an industrial union shall be valid until registered.

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 with any order or award.

(8.) Any decision of the registrar under this section with respect to an objection taken as aforesaid, or on registration or refusal of registration, shall be subject to appeal to the Court as prescribed.

(9.) Any industrial association consisting of employees employed by the Government shall be qualified for registration as an industrial union under this Act, provided it would be so qualified if its members were not employed by the Government.

Particulars  
to be  
furnished on  
application  
for  
registration.

**29.** Every application for registration as an industrial union of employees shall be accompanied by—

- (a) A list of its members ;
- (b) A list of the officers of the union, namely—the president or chairman, the secretary, the members of the committee of management or executive committee, and all salaried officers, with their official designations ;
- (c) Two copies of the rules of the union ;
- (d) A copy of a resolution passed in accordance with the rules by a majority of the members present at a general meeting of the union, or by other competent authority in the union, in favour of registration of the union under this Act ;
- (e) A list of callings comprised in the membership or objects of the union ;
- (f) The localities or districts in which the members of the union exercise their callings.

Registration  
of industrial  
union of  
employers.

**30.** The registrar may, on application made as prescribed, register as an industrial union of employers under this Act any person or association of persons or any incorporated company or association of incorporated companies who or which has in the aggregate throughout the six months next preceding the date of the application for registration employed on an average, taken per month, not less than fifty employees.

Notice of such application shall be published as prescribed.

Particulars  
to be  
furnished on  
application  
by  
employers.

**31.** Every application for registration as an industrial union of employers shall be accompanied by—

- (a) The name of the employer or the names of the employers constituting the association, and the place or places in which such employer carries on or such employers carry on business ;

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- (b) A list of the officers of the association, namely— the president or chairman, the secretary, the members of the committee of management or executive committee, and all salaried officers, with their official designations ;
- (c) Two copies of the rules of the association ;
- (d) If the association consists of more than one person or company, a copy of a resolution passed in accordance with the rules by a majority of the employers constituting the association, or by other competent authority in the association, in favour of registration of the association under this Act ;
- (e) A list of the callings in which employees are employed by the person or persons, company or companies, constituting the association ;
- (f) The manner of control of the property of the association as such, and the investment of the funds of the association as distinguished from the property and funds respectively of the constituent member or members of the association.

**32.** No two associations or unions shall be registered as industrial unions under the same name. No registration under same name.

**33.** (1.) Where two or more industrial associations or trade unions exist in any calling, any two or more of them may apply for joint registration as an industrial union. Registration of several unions for the same calling.

(2.) Where an industrial association or trade union applies for registration for a calling for which another industrial union is already registered, the registrar may accept the application and shall thereupon bracket together, with respect to the calling concerned, the registrations of the unions concerned. And the registrar may deal similarly with any subsequent application for registration by any other industrial association or trade union in the same calling :

Provided that the industrial union first registered shall be given fourteen days' notice by the registrar of his intention to bracket with the registration of such union the registration of another industrial union, and within the prescribed time and in the prescribed manner such first registered union may oppose such bracketing of the registrations.



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Industrial unions which for the purpose of any calling have had their registrations bracketed shall have joint rights under this Act.

In any proceedings before the Court, such unions may appear jointly or separately.

Amalgama-  
tion of  
unions.

**34.** (1.) Any two or more industrial unions consisting of employees engaged in the same calling or in related callings may apply to the registrar for registration as one union.

Any two or more industrial unions consisting of employers engaged in the same calling or industry or in related callings or industries may apply to the registrar for registration as one union.

(2.) Every application hereunder shall be deemed to be an application for registration under this Act, and the provisions hereinbefore contained with respect to such applications shall be observed.

(3.) On the proposed new union being registered as an industrial union—

(i.) The registration of every industrial union affected shall be deemed to have been cancelled;

(ii.) All the property, rights, duties, and obligations whatever vested in or imposed on the industrial unions affected shall become vested in or imposed on the new union.

Certificate of  
registration.

**35.** The registrar shall issue to each industrial union registered under this Act a certificate of registration in the prescribed form, which certificates shall, until proof of cancellation, be conclusive evidence of the registration of the union therein mentioned, and that it has complied with the prescribed conditions to entitle it to be registered.

Returns to  
registrar.

**36.** Each industrial union shall, as prescribed, forward to the registrar such returns of its members, officers, accounts, and alteration of its rules as are prescribed, and for any failure so to do shall be liable to a penalty not exceeding two pounds per week for each week of default.

Documents  
open to  
inspection.

**37.** The list of members and officers and the rules of an industrial union shall be open to inspection by any person authorised by any industrial union in that behalf.

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UNIONS.

**38.** An industrial union may, in the prescribed manner, and on compliance with the prescribed conditions, change its name, and the registrar shall thereupon record the change of name in the register and upon the certificate of registration.

Change of  
name.

**39.** The registrar may from time to time on the application of an industrial union amend its registration in respect of the callings it represents.

Change of  
callings.

**40.** (1.) If it appears to the Court, on the application of any industrial union or person interested, or of the registrar—

Cancellation  
of  
registration  
of union.

- (a) That for any reasons the registration of an industrial union ought to be cancelled ; or
- (b) That an industrial union has been registered erroneously or by mistake ; or
- (c) That the rules of an industrial union or their administration do not provide reasonable facilities for the admission of new members, or impose unreasonable conditions upon the continuance of their membership, or are in any way tyrannical or oppressive ; or
- (d) That an industrial union has wilfully neglected to obey any order of the Court ;

the Court shall order the registration of the union to be cancelled, and thereupon it shall be cancelled accordingly.

(2.) Provided that, save where otherwise mentioned in this Act, such cancellation shall not relieve the industrial union or any member thereof from the obligation of any award or industrial agreement (whether made under the repealed Act or this Act) or order of the Court, or from any penalty or liability incurred prior to such cancellation.

(3.) The Court may cancel the registration of an industrial union if proof is given to its satisfaction that a majority in number of the members of the union, by ballot taken as prescribed, require such cancellation.

**41.** (1.) Every industrial union shall, upon and during registration, become and be, for the purposes of this Act, a body corporate by its registered name, having perpetual succession and a common seal.

Incorporation  
of  
union.

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UNIONS.*Industrial Conciliation and Arbitration Act.* 23 GEO. V. No. 36,Registered  
name.

(2.) There shall be inserted in the registered name of every industrial union the words “union of employees” or “union of employers” as the case may require, and also the locality in which the majority of its members reside or exercise their calling.

PART IV.—  
INDUSTRIAL  
AGREEMENTS.

## PART IV.—INDUSTRIAL AGREEMENTS.

Industrial  
agreements  
may be  
made.

42. (1.) Any industrial union may make an agreement in writing with an industrial association of employers or some specified employer or employers for the prevention or settlement of an industrial dispute or relating to any industrial matter.

Every such agreement shall be made between an industrial union or industrial association of employees of the one part and an industrial union or industrial association of employers or some specified employer or employers of the other part :

Provided that on the application of any person bound by an award, and where it considers it advisable in the public interest so to do, the Court may prohibit any industrial union of employees or any employer or industrial union or association of employers from making or enforcing an industrial agreement inconsistent with the said award.

Term and  
form of  
agreement.

(2.) Every industrial agreement shall be for a term to be specified therein, not exceeding three years from the date of the making thereof, and shall commence as follows : “ This Agreement, made in pursuance of \* “ *The Industrial Conciliation and Arbitration Act of 1932,*” this                      day of                      Between                      ,” and then the matters agreed upon shall be set out.

(3.) An agreement shall be limited in its effect to the particular locality therein specified.

Date of  
agreement.

(4.) The date of the making of the agreement shall be the date on which it is first executed by any party thereto ; and such date, and the names of all the original parties thereto, shall be truly stated therein.

Agreement  
to continue  
in force for  
parties not  
retired.

(5.) Notwithstanding the expiry of the term of an industrial agreement, it shall, subject to any award under this Act, continue in force in respect of all parties thereto, except those who retire therefrom.

\* 23 Geo. V. No. 36 (this Act).

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(6.) At any time after, or not more than thirty days before the expiry of an industrial agreement, any party thereto may file in the office of the registrar a notice in the prescribed form signifying his intention to retire therefrom at the expiration of thirty days from the date of such filing, and such party shall on the expiration of that period cease to be a party to the agreement. Mode of retirement.

43. (1.) A duplicate original of every industrial agreement shall, within thirty days after the making thereof, be filed in the office of the registrar. Duplicate to be filed.

(2.) Every document purporting to be a copy of an industrial agreement shall (notwithstanding that no notice to produce the original has been given) be admissible in evidence in proof of the contents of the original, provided such copy is certified as a correct copy under the seal of the Court and the hand of the registrar.

A copy of the *Gazette* containing the agreement shall be received in all courts and tribunals and before all persons as evidence of such agreement without further proof.

The production of such copy shall be *primâ facie* evidence that the original agreement was duly executed in accordance with this Act in manner indicated in the copy, and that a duplicate has been duly filed.

44. Whilst the industrial agreement is in force, any industrial union or employer may (with the consent of the original parties to the agreement or their respective representatives) become party thereto by filing in the registrar's office a notice in the prescribed form, signifying concurrence with such agreement. Parties to agreement may be added.

45. (1.) Every industrial agreement duly filed shall extend to and be binding on— On whom agreement binding.

- (a) The parties who execute the same or concur therein ; and
- (b) Every member for the time being of any industrial union which is party thereto ; and
- (c) Every worker who is, at any time whilst it is in force, employed by any employer on whom the agreement is binding ;
- (d) Every member for the time being of any association of employers which is a party thereto.

PART IV.—  
INDUSTRIAL  
AGREEMENTS.*Industrial Conciliation and Arbitration Act.* 23 GEO. V. No. 36,Enforce-  
ment.

(2.) An industrial agreement shall be enforceable in the same manner as if it were an award of the Court.

Agreements  
may be  
varied,  
renewed, or  
cancelled.

**46.** An industrial agreement may be varied, renewed, or canceled by any subsequent industrial agreement made by and between all the parties thereto, but so that no party shall be deprived of the benefit thereof by any subsequent industrial agreement to which he is not a party :

Provided that no industrial agreement with respect to which any powers conferred by the next succeeding section have been exercised shall be varied or cancelled without the leave of the Court.

Industrial  
agreement  
may be  
declared a  
common  
rule.

**47.** The Court may declare that any industrial agreement shall have the effect of an award and be a common rule of any calling or callings to which it relates, and the agreement shall thereupon, subject as hereinafter provided, become binding on all employers and employees, whether members of an industrial union or not, engaged at any time during its currency in any such calling within the locality specified in the agreement :

Provided that before acting under this section the Court shall give all parties, likely in its opinion to be affected, notice by advertisement or otherwise of its intention to extend the operation of such agreement, and shall hear any parties desiring to be heard in opposition thereto.

PART V.—  
GOVERNMENT  
EMPLOYEES.Government  
employees.

## PART V.—GOVERNMENT EMPLOYEES.

**48.** If any persons employed by the Government are members of any industrial union composed of employees engaged in the same calling as such persons, the Minister of the department in which such persons are employed, or the corporation of "The Treasurer" in the case of sugar-works controlled by or vested in such corporation, or the Commissioner for Railways in the case of the Railway Department, or the Commissioner of Police in the case of members of the Police Force, or the Insurance Commissioner in the case of the State Government Insurance Office, or the Commissioner of Main Roads in the case of the Main Roads Commission, or the Under Secretary, Department of Labour and Industry, in the

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case of State Enterprises, to which \**“The State Enterprises Repeal and “The Under Secretary, Department of Labour and Industry” Corporation Act of 1931,”* applies, shall, in relation to all such persons who are for the time being members of such union, and for the purposes of this Part, be deemed an employer, and such persons shall be deemed employees.

49. In reference to any such industrial union as is mentioned in the last preceding section, the following provisions apply :— Unions of Government employees.

(1.) The employer may enter into industrial agreements with any such union.

(2.) If an industrial dispute arises between the employer and any such union, proceedings with respect thereto may be initiated before the Court in manner provided by this Act. The Court shall have jurisdiction to hear and determine the cause accordingly and to make an award thereon.

(3.) In any proceedings before the Court the employer may be represented by any officer whom he appoints on that behalf.

(4.) With the consent of all parties any party may be represented by counsel or solicitor.

(5.) Subject to this Act, any award made hereunder shall be binding on the like persons and be enforceable in the same manner as other industrial awards, and a breach thereof shall entail the like penalties, and the provisions of this Act applicable to other industrial awards shall be applicable to awards made hereunder.

(6.) Notwithstanding anything herein contained, the employer shall not be personally liable under any such agreement or award, or be subject to any personal penalty in respect thereof or in connection therewith.

(7.) No execution or attachment or process in the nature thereof shall be issued against the property or revenues of the Crown or of any department or agency of His Majesty's Government to enforce any award or order made under this Act. Protection of Crown property.

\* 22 Geo. V. No. 47, *supra*, page 13907.

PART VI.—BREACHES OF AWARDS AND OTHER  
OFFENCES.Action for  
moneys due  
under  
awards.

50. (1.) Where an employer employs any person to do any work for which the price or rate has been fixed by an award, order, or industrial agreement, whether made under the repealed Act or this Act, or by a permit or license under this Act, he shall pay in full in money to such person and without any deduction, whether on account of the loan or hire of tools or the supply of material or otherwise, except such as may be authorised by such award, order, or agreement, the price or rate so fixed. In every such award, order, or agreement the deductions permitted by \**“The Wages Act of 1918”* shall be deemed to be authorised, although not expressly mentioned or referred to therein. But this provision shall not be construed to prohibit a deduction agreed upon between an employer and any of his employees by way of contribution to any hospital or benevolent or provident fund, or any contribution under †*“The Unemployed Workers Insurance Acts, 1922 to 1931,”* and ‡*“The Income (Unemployment Relief) Tax Acts, 1930 to 1932.”*

For the purposes of this subsection the term “hospital” means a hospital established pursuant to §*“The Hospitals Acts, 1847 to 1891”* (and a Committee formed in respect thereof), or a hospital constituted under ¶*“The Hospitals Acts, 1923 to 1932,”* or a hospital conducted by a friendly society or religious organisation, and no other hospital.

(2.) Such person may, and notwithstanding that he was not or is not of age at the time when such money became due or at the date of the application next hereinafter mentioned, apply himself, or any industrial union to which he belongs may apply on his behalf, within ninety days (or such extended time as the Court or an industrial magistrate may allow, but not exceeding a period of six months inclusive of such ninety days) after any of such money has become due, to the Court, or, if the Court remits the matter to an industrial magistrate,

\* 9 Geo. V. No. 19, *supra*, page 8495.

† 13 Geo. V. No. 28 and amending Acts, *supra*, pages 10073 *et seq.*

‡ 21 Geo. V. No. 1 and amending Acts, *supra*, pages 12952 *et seq.*

§ 11 Vic. No. 59 and amending Acts, *supra*, pages 951 *et seq.*

¶ 14 Geo. V. No. 44, 19 Geo. V. No. 23, 20 Geo. V. No. 24, *supra*, pages 10537, 12167, and 12477; also 23 Geo. V. No. 26 (this volume).

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such magistrate, for an order directing the employer to pay the full amount of any balance due in respect of such price or rate, and earned by the employee during the period of employment not exceeding the said ninety days (or such extended period inclusive thereof as the Court or such magistrate has allowed).

Such order may be so made notwithstanding any smaller payment or any express or implied agreement to the contrary.

The Court, or, if the Court remits the matter to an industrial magistrate, such magistrate, may order such payment to be made on any terms it or he thinks just, and may award costs to either party and assess the amount of such costs.

In the event of a prosecution of any employer for any contravention of this Act which involves the non-payment to any employee or employees of any money earned by him or them, the Court or such magistrate may, in addition to any penalty imposed upon the defendant, order the payment by him of all moneys earned by the employee or employees during the period of employment not exceeding the said ninety days (or such extended period inclusive thereof as the Court or such magistrate may allow), and such order for payment shall be in addition to any penalty imposed, and may be enforced as a decision of the Court.

(3.) In every case where an employee has left the employment of an employer without being paid the full amount due to him in respect of such employment, and the employer has been unable during a period of thirty days after the termination of employment to make such payment because the whereabouts of such employee are unknown to him and cannot with reasonable diligence be found, such employer shall forthwith after the expiration of such period pay the full amount as aforesaid to the nearest clerk of petty sessions to the credit of such employee; and the said clerk of petty sessions shall deal with all such sums of money in the same manner in which moneys held by him in trust for litigants are prescribed to be dealt with.

The receipt of a clerk of petty sessions to any employer for money so paid by him shall be a good discharge to the employer to the amount mentioned in such receipt.



PART VI.—  
BREACHES  
OF AWARDS  
AND OTHER  
OFFENCES.

*Industrial Conciliation and Arbitration Act.* 23 GEO. V. No. 36,

Saving of  
provisions of  
"The Wages  
Act of 1918."

(4.) Nothing in this Act shall in any wise limit or affect the operation and provisions of \*"*The Wages Act of 1918*" in respect of any proceedings for the recovery of wages, and any proceedings for the recovery of wages under such lastmentioned Act may be had and taken accordingly :

Provided that any claim for unpaid wages under such lastmentioned Act shall not extend to a claim for wages beyond a period of ninety days after such moneys have become due, or such extended period not exceeding six months (inclusive of such ninety days) as the Court or magistrate may allow.

Prohibition  
of strikes or  
lock-outs.

**51.** (1.) No person shall take part in, or do or be concerned or instigate to or aid in doing, any matter or thing in the nature of a strike or lock-out unless or until a strike or lock-out has been authorised by the industrial union or employers in the calling concerned.

A strike shall not be deemed to have been authorised until all the members of the industrial union who are engaged in the calling and in the district affected have had an opportunity of participating in a secret ballot taken at a general meeting duly constituted in accordance with the rules of the union, and a majority have voted in favour of such strike :

Provided that, where it is inconvenient for members of the union to attend at a general meeting, the decision of the members may be taken by means of a secret poll of the whole of those affected ; the poll may be taken by postal ballot or otherwise ; or a series of meetings may be held and ballots taken thereat, and in that case the result of the aggregate vote shall be taken to be the decision :

Provided further that, in any calling where no industrial union exists, no strike shall be authorised and in no case shall any lock-out be authorised unless and until the registrar has, in manner prescribed by Rules of Court, taken a secret ballot amongst the employees or employers, as the case requires, in the calling concerned, and such ballot has resulted in favour of such strike or lock-out :

Provided further, that no strike or lock-out shall be deemed to have been authorised unless or until the result

\* 9 Geo. V. No. 19, *supra*, page 8495.

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of the secret ballot or voting thereon of the persons concerned, together with the details of the voting have been communicated to the registrar :

Provided further, that any question as to whether any strike is an authorised strike or any lock-out is an authorised lock-out shall be heard and determined by the Court.

Any person who commits an offence against this section shall be liable to a penalty, in the case of an employer or industrial union, not exceeding one hundred pounds, and in other cases not exceeding ten pounds.

(2.) Nothing in this section shall prohibit the suspension or discontinuance (not being in the nature of a strike or lock-out) of any calling or of the working of any persons therein for good cause independent of an industrial dispute; but on a prosecution for any contravention of this section the onus of proof that any such suspension or discontinuance is not in the nature of a strike or lock-out, and that such independent good cause exists, shall lie on the defendant.

**52.** No industrial union or industrial association shall be liable to any suit or action, nor shall the funds of such union or association be in any way chargeable in respect of any act or word done, spoken, or written during or in connection with any strike or lock-out, by any agent, if such agent acted contrary to instructions *bona fide* given by or without the knowledge of the governing body of such union or association.

Disobedience  
of orders to  
exonerate  
union.

**53.** (1.) No employer shall refuse employment to any person or dismiss any employee from his employment, or injure him in his employment, or alter his position to his prejudice, by reason merely of the fact that the employee is an officer or member of an industrial union or of a society or other body that has applied to be registered as an industrial union or is entitled to the benefit of an industrial agreement or award.

Employer  
not to  
dismiss  
worker on  
account of  
application.

Any person who contravenes this provision shall be liable to a penalty not exceeding fifty pounds for each person so refused employment or employee so dismissed or injured in his employment; moreover, the Court shall award to any such person as last aforesaid such sum as is reasonable compensation for loss of or injury in his employment, and order that he shall, if he has

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OFFENCES.

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been dismissed from or prejudiced in employment, be forthwith reinstated to his former employment or grade; and every such order shall be obeyed.

(2.) In any proceeding for any contravention of this section it shall lie upon the employer to show that any employee proved to have been dismissed or injured in his employment or prejudiced whilst an officer of an industrial union or such a society or body, or whilst entitled as aforesaid, was dismissed or injured in his employment or prejudiced for some reason other than that mentioned in this section.

Provision  
as to  
waterside  
workers.

**54.** (1.) It shall not be lawful for any employer or combination of employers to take such action, directly or indirectly, whereby the members of the Queensland branches and sub-branches of the Waterside Workers' Federation of Australia shall be debarred the right of attending at any place or places at which it is customary to engage such workers, and no member of the aforesaid Federation shall be denied the right of being engaged for such employment, nor shall any such member as aforesaid be discriminated against on the grounds that he is a member of such Federation.

Any employer or combination of employers offending against the provisions of this section shall be liable to a penalty not exceeding one hundred pounds in each and every case.

(2.) The members of the Queensland branches and sub-branches of the Waterside Workers' Federation of Australia shall be competent to make application to register as an industrial union of employees.

Any such union may apply to the Court for an award for any calling in respect of which the Court has jurisdiction to make an award.

Power to  
make orders  
for  
observance  
of awards  
and  
agreements  
or to restrain  
breaches of  
Act.

**55.** (1.) The Court may, on the application of any party to an industrial agreement or award or of the registrar or any industrial inspector, make any such order as it deems just and necessary in the nature of a mandamus or injunction to compel compliance with an industrial agreement or award or to restrain a breach thereof or the continuance of any breach:

Provided that any application by an industrial union for an order under this section shall be under the seal of the union and signed by the secretary and chairman.

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(2.) The Court may, on the application of any such party or the registrar or any industrial inspector, make any order of the nature aforesaid which it deems just and necessary to restrain any breach of this Act or the continuance of any breach.

(3.) Any of the powers of the Court under this section may be exercised by the President or member in chambers, but any order made by the President or member hereunder may be discharged by the Court on the application of any party or person affected.

(4.) No person to whom any such order as aforesaid applies shall, after he has received written notice of the same, contravene such order in any way by act or omission.

Any person who contravenes such order shall be liable to a penalty not exceeding one hundred pounds.

**56.** No person shall write, print, or publish anything calculated to obstruct or in any way interfere with or prejudicially affect any matter before the Court or an industrial magistrate. Obstruction of Court.

Any person who contravenes this provision shall be liable to a penalty not exceeding fifty pounds.

**57.** Any person who—

- (a) Resists or obstructs the Court or any officer thereof in the performance of any duties or the exercise of any powers under this Act, or wilfully disobeys any order of the Court;
- (b) Being lawfully required, fails to produce or exhibit any document or allow any document to be examined;
- (c) Wilfully misleads any officer in any particular likely to affect the discharge of his duty;
- (d) Being lawfully asked any question by an officer pursuant to this Act, fails to answer the same truthfully to the best of his knowledge, information, and belief,

Obstructing  
officers and  
similar  
offences.

shall be liable to a penalty not exceeding fifty pounds.

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AND OTHER  
OFFENCES.

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False  
statements,  
&c., to  
employers.

**58.** When under any award the amount of wages payable by an employer to an employee depends wholly or in part upon the age or experience or duration of previous employment of the employee, any person who, when seeking employment or while an employee, gives or makes to an employer any information or statement relating to any such matters which is false to the knowledge of such person or employee, shall be liable to a penalty not exceeding twenty pounds.

Counselling  
or procuring  
offences.

**59.** (1.) Every person who, or industrial association or other body which is, directly or indirectly, concerned in the commission of any offence against this Act, or counsels, takes part in, or encourages the commission of any such offence, shall be deemed to have committed that offence, and shall be punishable accordingly.

Attempts.

(2.) Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed.

General  
penalty.

**60.** Any industrial union or person guilty of any contravention of this Act, whether by commission or omission, shall, except where some penalty or punishment is specifically provided, be liable to a penalty not exceeding in the case of an industrial union or company one hundred pounds, or in the case of a person ten pounds.

All penalties recovered under this Act shall be paid into the Consolidated Revenue.

Without prejudice to the powers or rights of the Crown or any person aggrieved, a prosecution or other proceeding for any contravention of this Act or breach of any award may be instituted and carried on by an industrial union.

Breaches of  
awards and  
contraven-  
tions of Act  
generally.

**61.** (1.) Whoever commits a breach of an award or industrial agreement whether by contravention or non-observance of the same shall be liable to a penalty not exceeding in the case of an employer or industrial association fifty pounds, and in the case of an employee ten pounds.

Whoever disobeys an order of the Court which imposes a penalty for disobedience thereto, and whoever commits a breach whether by contravention or non-observance of any provision of this Act which provides for a penalty, shall be liable to pay the penalty so imposed or provided for.

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OFFENCES.

Any order to pay a penalty shall have the effect of and be enforced as a decision of the Court.

(2.) Any employee who receives from an employer or from any one on his behalf, and any employer or person on his behalf who pays to an employee a less remuneration than such employee is entitled to under any award or industrial agreement, shall be deemed to commit a breach of such award or industrial agreement.

(3.) Any employee who, in pursuance of an express or implied agreement with an employer or with any person on behalf of an employer, receives or agrees to receive or authorises another person to receive on his behalf a less remuneration than that to which he is entitled under an award, industrial agreement, permit, or license, and such person so authorised as aforesaid and such employer or person acting on his behalf, shall each of them be guilty of an offence against this Act :

Provided that no prosecution shall be initiated under this subsection without the leave of the Court, nor at the instance of any industrial union or person which or who is not entitled to initiate proceedings under this Act.

(4.) Any employee who returns or agrees to return any portion of the remuneration paid to him in accordance with the terms of an award, industrial agreement, or permit shall be deemed for the purposes of this section to have received a less remuneration than was due to him under such award, agreement, or permit.

(5.) Where an order to pay a penalty is made against any person or trade union or industrial union, or against a member of any such union or against an employer, and the Court is of opinion or is informed by the industrial magistrate to whom the case has been remitted that the breach was committed by the wilful act or default of any such person or union, or employer, or of any member of any such union, the Court may, on motion or *ex parte* and in addition to any other order, grant an injunction to restrain such person or union, or employer, or member from continuing the said breach, or from committing further or other breaches of the award or industrial agreement, under a penalty not exceeding one thousand pounds.

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BREACHES  
OF AWARDS  
AND OTHER  
OFFENCES.

*Industrial Conciliation and Arbitration Act.* 23 GEO. V. No. 36,

Recovery of  
penalty  
imposed on  
union.

**62.** Where a penalty is imposed under this Act on an industrial union, or an industrial union is under this Act ordered to pay any sum, then, for the recovery of such penalty or sum, process may be issued and executed against the property of such union, or any property in which such union has a beneficial interest, to the extent of such interest, whether vested in trustees or howsoever otherwise held, in the same manner as if the union were an incorporated company and the absolute owner of the property or interest :

Provided that nothing herein shall extend to the printing presses or types or other assets in connection with a duly registered newspaper.

Proceedings  
for offences  
generally.

**63.** Proceedings in respect of offences against this Act shall, except where otherwise provided, be by complaint, and be heard and determined in a summary manner by the Court or on remission by an industrial magistrate.

Without limiting the power of the Crown or of any persons aggrieved, or any inspector, proceedings for breaches of awards or of this Act, and proceedings for the recovery of moneys due to an employee, may be initiated or undertaken by an industrial union.

Appeals  
from  
industrial  
magistrates.

**64.** Appeals from the decision of an industrial magistrate shall lie to the full bench of the Court constituted under this Act and not to the Supreme Court.

The proceedings on such appeal shall be prescribed by Rules of Court :

Provided that—

- (i.) The Court on upholding a conviction may increase the term of imprisonment or the penalty, as the case may be, to such term or amount not exceeding that permitted by this Act, or may reduce such term or penalty as the Court deems proper ;
- (ii.) The Court may make such order concerning costs as it deems proper.

## PART VII.—MISCELLANEOUS.

**65.** All fines, fees, levies, and dues payable under its rules to an industrial union by any member thereof may, in so far as they are owing to the union for any period subsequent to the registration thereof, be sued for and recovered in any Magistrates Court constituted under \**"The Magistrates Courts Act of 1921,"* or on remission before an industrial magistrate.

Powers of  
unions to  
recover  
fines, &c.

**66.** When an award has fixed the lowest price or rate which may be paid to any person working in a factory, and also the periods of time within which the ordinary working hours shall be worked, it shall not be lawful for more than one member of a partnership to personally work inside a factory of the class to which the award relates at any time beyond such periods of time.

Working in  
factory  
during  
prohibited  
hours.

**67.** Notwithstanding anything in this Act or in any other law or any practice to the contrary—

Court to be  
guided by  
equity and  
good  
conscience.

- (a) The Court in the exercise of any jurisdiction, duty, power, or function conferred or imposed upon it, shall be governed in its procedure and in its awards and decisions by equity, good conscience, and the substantial merits of the case, without regard to technicalities or legal forms or the practice of other courts; and
- (b) The Court in the exercise of any such jurisdiction, duty, power, or function, shall not be bound by any rules or practice as to evidence, but may inform its mind on any matter in such manner as is deemed just.

This section does not apply to proceedings in respect of offences against this Act.

**68.** Every award shall prevail over any contract of service or apprenticeship in force on the coming into operation of the award, so far as there is any inconsistency between the award and the contract; and the contract shall thereafter be construed and have effect as if it had been modified, so far as necessary, in order to conform to the award:

Awards to  
prevail over  
contracts in  
cases of  
conflict.

Provided that no such contract shall be deemed to be inconsistent with an award for the reason only that such contract provides for more favourable conditions of employment than those provided by the award.

\* 12 Geo. V. No. 22, *supra*, page 9713.



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MISCELLANEOUS.

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Intervention  
by the  
Crown.

**69.** The Crown may, where, in the opinion of the Minister, the public interests are or would be likely to be affected by the decision of the Court, intervene at any stage in any proceedings under this Act or involving the interpretation thereof.

Upon such intervention the Crown shall be deemed to be a party.

Representa-  
tion of  
parties at  
hearing.

**70.** On the hearing or determination of any industrial cause, whether before the Court or any industrial magistrate, a party being an industrial union may be represented by a member or officer, and any other party may be represented by his agent duly appointed in writing in that behalf.

But unless all parties consent thereto no party shall be represented by counsel or solicitor in any proceedings before the Court or before an industrial magistrate.

Record to  
be kept by  
employer.

**71.** Each employer shall keep and have available for inspection by any industrial inspector a complete record of all employees for the time being employed, showing their designation, rate of wages, times of starting and ceasing work, and the award under which they are working respectively.

Award as to  
minimum  
wage to be  
posted up.

**72.** There shall be kept printed, painted, or affixed, in legible roman characters, in some conspicuous place at or near the entrance of every factory, workroom, shop, or premises to which an award applies, in such a position as to be easily read by the employees therein, a true copy of the award.

Evidence  
of award.

**73.** (1.) An office copy of or copy of the *Gazette* containing an award, order, decision, or other act of the Court, purporting to be sealed with the seal of the Court, shall be received in all courts and tribunals and before all persons as evidence of such award, order, decision, or other act without further proof; and it shall not be necessary to prove any condition precedent entitling the Court to make the decision, order, or award.

Registrar's  
certificate  
as to  
membership  
of union.

(2.) A certificate of the registrar that any specified person was at any specified time the chairman or a member of any specified industrial union shall (subject to review by a member of the Court) be conclusive evidence that the facts were as stated.

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74. When it is made to appear to a member of the Court that personal or other service of any summons, notice, or other document in connection with or for the purposes of any proceeding in or intended to be brought in the Court cannot promptly be effected in manner prescribed, such member may in his discretion make any order for substituted or other service or the substitution for service of notice by letter, telegram, public advertisement, or otherwise which he deems necessary or convenient; and in such case compliance with such order shall be sufficient service.

Special mode  
of service  
may be  
directed.

Subject always to any order of the Court, service of any such summons, notice, or other document upon a registered industrial union of employers shall be deemed to be service upon all employers in the same calling or industry or in the same related callings or industries in respect of which such industrial union is registered.

75. (1.) A member of the Court and (upon being authorised in writing by a member of the Court) any officer of the Court or any other person, without any other warrant than this Act, may at any time during working hours—

Powers of  
entry to  
Court  
for  
examination  
of factories,  
&c.

- (a) Enter any place or premises or any ship or vessel of any kind whatsoever wherein or in respect of which any calling 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 exists or is threatened or impending or will probably arise, or any industrial matter exists, or any award has been made, or any offence against this Act is suspected;
- (b) Inspect and view any work, material, machinery, appliances, article, matter, or thing whatsoever being in such place, premises, ship, or vessel;
- (c) Interrogate any person or persons who may be in or upon such place, premises, ship, or vessel in respect of or in relation to any matter or thing hereinbefore mentioned.

Inspection  
of work and  
interrogation  
of persons.

(2.) Every person who hinders or obstructs a member of the Court or any officer of the Court or other person in the exercise of any power conferred by this section,

or who refuses or unduly delays to a member of the Court, or any officer of the Court or other person authorised as aforesaid, entrance during any such time as aforesaid to any such place, premises, ship, or vessel, or refuses without reasonable excuse to answer any question put to him as aforesaid, or gives or makes any information or statement which is to his knowledge false, shall be liable to a penalty not exceeding fifty pounds.

Appointment  
and powers  
of industrial  
inspectors.

**76.** (1.) The Governor in Council may from time to time appoint industrial inspectors who shall have the powers and duties prescribed.

Each inspector shall be provided with a certificate of appointment signed by the Minister.

In addition to any other powers and duties vested in or imposed upon him, any such inspector may exercise the following powers and perform the following duties in respect of any calling as to which an award or an industrial agreement is in force :—

- (a) He may at any time during business operations or working hours inspect any premises of any employer upon which any such calling is carried on, and any work being done therein.
- (b) He may at any time during business operations or working hours require the employer in such calling to produce for his examination, and may examine, any time-sheets and pay-sheets of the employees in such calling.
- (c) He may at any time during business operations or working hours, out of the hearing of any employer, foreman, deputy, manager, or other superior officer, examine any employee in such calling as to the prices for piecework and the rate of wages paid to him, and as to his hours of work as such employee.
- (d) He may institute proceedings under this Act for a penalty.

The owner of such premises or employer may require such inspector to produce his certificate of appointment.

(2.) It shall be the duty of industrial inspectors to see that the provisions of awards and orders of the Court are duly observed.

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PART VII.—  
MISCELLANEOUS.

An industrial inspector shall report to the Director of Labour all breaches of this Act, or of an award or industrial agreement, which have come to his knowledge.

(3.) No industrial inspector shall have any authority under this Act to enter a private dwelling-house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein.

(4.) Any industrial inspector who, except for the purposes of this Act, and in the exercise of his functions under this Act, discloses to any person any information which, in the exercise of such functions, he acquires, shall be liable to a penalty not exceeding fifty pounds.

(5.) Any person who obstructs any inspector in the exercise of his powers under this Act, or fails when duly required as aforesaid to produce any time-sheets or pay-sheets, shall be liable to a penalty not exceeding ten pounds.

Obstructing  
inspector.

77. Any officer of an industrial union of employees authorised in writing by the president and secretary of such union shall have the right to enter any place or premises or any ship or vessel of any kind whatsoever, wherein members of such union or persons in the same calling as such members are engaged, for the purpose of conversing with or interviewing the employees in such place, premises, ship, or vessel :

Power of  
inspection  
by union  
officials.

Provided that such officers shall not wilfully hamper or hinder the employees during their working time, and may interview any employees or converse with them during any lunch hour or non-working time.

Every person who hinders or obstructs any such officer in the exercise of any power conferred by this section, or who refuses entrance to such officer or unduly delays such officer in entrance during any such time as aforesaid to any such place, premises, ship, or vessel, shall be liable to a penalty not exceeding fifty pounds.

78. Notwithstanding any Act to the contrary, no stamp duty shall be payable on or in respect of any certificate, agreement, order, statutory declaration, power of attorney, or instrument executed in pursuance of or to give effect to this Act.

No stamp  
duty  
payable.

## Regulations.

**79.** (1.) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act, and, where there may be in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give effect to this Act, providing for and supplying such omission or insufficiency.

(2.) The regulations may fix a penalty, not exceeding in any case twenty pounds, for any breach thereof.

(3.) All such regulations shall be published in the *Gazette*, and thereupon, subject to subsection four hereof, shall be of the same effect as if they were contained in this Act.

Such regulations shall be laid before Parliament within fourteen sitting days after such publication if Parliament is in session, and if not then within fourteen sitting days after the commencement of the next session.

(4.) If Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any time within fourteen sitting days of such Parliament after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

(5.) For the purpose of this section, the term "sitting days" shall mean days on which Parliament actually sits for the despatch of business :

Provided always that if such regulations are not duly laid before Parliament as hereinbefore prescribed they shall thereupon cease to have any force, effect, or operation whatsoever.

Provisions  
as to Orders  
in Council.

**80.** (1.) All Orders in Council made under this Act shall be published in the *Gazette*.

The Governor in Council may, by another Order in Council, amend or rescind any such Order in Council.

(2.) No misnomer or inaccurate description or omission in or from any such Order in Council shall in any wise prevent or abridge the operation of this Act with respect to the subject-matter, provided the same is designated so as to be understood.

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(3.) A copy of the *Gazette* containing an Order in Council purporting to be made by the Governor in Council under this Act shall be conclusive evidence of the due making of such Order, and such Order shall not be liable to be challenged or disputed in any court whatever.

**81.** All moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament. Expenses to be paid out of moneys provided by Parliament.

**82.** (1.) Nothing in this Act shall prejudice or affect the provisions of \**“The Financial Emergency Act of 1931”* or †*“The Financial Emergency Relief Extension Act of 1932,”* and the several Acts referred to in such Acts. Saving of Financial Emergency Acts.

(2.) Provided that the following amendments are made in †*“The Financial Emergency Relief Extension Act of 1932,”* namely:—

(a) Section eleven (inserting section 17A in Part VI. of \**“The Financial Emergency Act of 1931”*) is amended by the insertion in paragraph (b) of the proviso to subsection four of such section 17A, after the words “*“The Companies Act of 1931,”*” of the words “or a primary producers’ co-operative association registered under *“The Primary Producers’ Co-operative Associations Acts, 1923 to 1926”*”; also by inserting in the said paragraph, after the word “company,” and before the words “or firm,” the words “primary producers’ co-operative association.”

(b) Section twelve (amending section eighteen of Part VI. of \**“The Financial Emergency Act of 1931”* and adding new subsection ten thereto) is amended by the insertion in provision (ii.) of paragraph (b) of the said subsection ten, after the words “*“The Companies Act of 1931,”*” of the words “or a primary producers’ co-operative association registered under *“The Primary Producers’ Co-operative Associations Acts, 1923 to 1926”*”; also by inserting in the said provision, after the word “company,” and before the words “or firm,” the words “primary producers’ co-operative association.”

\* 22 Geo. V. No. 1, *supra*, page 13402.

† 23 Geo. V No. 10 (this volume). (*See also this Statute, the amendments hereby made having been inserted therein.*)

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(c) Subsection two of section twenty-nine is amended by adding to the said subsection the words "are inserted in lieu thereof."

(3.) Notwithstanding anything in this Act to the contrary contained, the amendments made by subsection two of this section to \*"*The Financial Emergency Relief Extension Act of 1932*" shall be deemed to have come into operation and to have effect as from the passing of such lastmentioned Act, and such lastmentioned Act shall be read and construed accordingly.

Reference in other Acts.

**83.** Where in any other Act reference is made to the Industrial Court or Judge of the Court or Conciliation Commissioner, as the case may be, such reference shall be and be deemed to be a reference to the Industrial Court or President or member as the case may be.

#### AMENDMENTS OF OTHER ACTS.

##### *Amendment of †"*The Profiteering Prevention Act of 1920.*"*

Administration of Profiteering Prevention Act.

**84.** On the constitution of the Industrial Court as hereinbefore prescribed, the administration of the provisions of †"*The Profiteering Prevention Act of 1920*" shall be an administrative function of a member of such Court (other than the President) who shall be appointed as hereinafter provided to be Commissioner of Prices in conjunction with his office as member of such Court, and the following section is inserted in †"*The Profiteering Prevention Act of 1920*" in lieu of section five therein, namely:—

##### *"Commissioner of Prices and Officers.*

Appointment of Commissioner of Prices.

[5.] (1.) The Governor in Council may from time to time appoint any member of the Industrial Court (other than the President) appointed under †"*The Industrial Conciliation and Arbitration Act of 1932*" to be also Commissioner of Prices.

Salary.

(2.) Such member shall be appointed Commissioner of Prices without extra remuneration over and above the emoluments of his office as member of the Industrial Court.

\* 23 Geo. V. No. 10 (this volume).

† 10 Geo. V. No. 33, *supra*, page, 9213.

‡ 23 Geo. V. No. 36 (this Act).

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(3.) Such member shall not be a member of the Executive Council or of Parliament, and shall not act as a director or auditor, or in any other capacity take part in the management of any bank, joint-stock company, or other financial or business institution, or of any trade or business; and in any such case he shall be disqualified from holding the office of Commissioner. Disabilities.

(4.) The Governor in Council may also appoint the secretary to the Commissioner to be the Deputy Commissioner of Prices, and during such term of office the Deputy Commissioner shall, during any absence of the Commissioner, have all the powers and authorities and shall perform all the duties of the Commissioner, and for the purposes of this Act shall be deemed in all respects to be the Commissioner. Deputy Commissioner.

(5.) The Commissioner from time to time, on the authority of the Minister, may delegate to the Deputy Commissioner such of his duties, powers, and authorities as may be so authorised, and for the purposes of this Act the Deputy Commissioner shall perform and exercise such duties, powers, and authorities so delegated as if he were the Commissioner, and shall in regard thereto be deemed in all respects to be the Commissioner." Delegation of powers.

*Amendments of \*"The Criminal Code."*

85. (1.) Section five hundred and thirty-four of *"The Criminal Code,"* as amended by section one hundred and nineteen of †*"The Industrial Conciliation and Arbitration Act of 1929,"* is amended as follows:— Amendments of "The Criminal Code."

In the said section five hundred and thirty-four all words beginning with the word "Attending" and ending with the word "section" are repealed, and the following words are inserted in lieu thereof, namely:—

"It is lawful for one or more person or persons acting in contemplation of or during the continuance of any industrial dispute to attend peaceably and in a reasonable manner at or near a house or place where a person resides or works or carries on business, or happens to be, if he or they so attend merely for the purpose of obtaining or communicating information, and such attending is not deemed a besetting within the meaning of this section.

\* 63 Vic. No. 9, Sch. I, *supra*, page 344.

† 20 Geo. V. No. 28, *supra*, page 12565.



Notification or warning of an intention to lock out or strike, or of an intention on the part of any workman or workmen to refuse to enter into or continue in the employment of any employer, is not deemed a threat or intimidation or molestation or obstruction within the meaning of this section."

The following definition is added to the said section:—

"For the purposes of this section "industrial dispute" has the same meaning as in \**The Industrial Conciliation and Arbitration Act of 1932.*"

(2.) After section five hundred and forty-three of †*The Criminal Code*" the following section is inserted under the following breviate:—

*"Industrial Disputes.*

[543A.] Notwithstanding anything contained in section five hundred and thirty-four or the last preceding section, no act done or omission made by any two or more persons in contemplation or furtherance of any industrial dispute, and no agreement or combination by any two or more persons to do any act or make any omission or to procure any act to be done or omission to be made in contemplation or furtherance of any industrial dispute, shall render any of such persons guilty of any offence if such act or omission when done or made by an individual person would not have rendered such person guilty of an offence. For the purposes of this section, the expression "industrial dispute" has the same meaning as in \**The Industrial Conciliation and Arbitration Act of 1932.*"

THE  
SCHEDULE.

THE SCHEDULE:

POWERS AND PROCEDURE OF THE INDUSTRIAL COURT.

Initiation of proceedings.

1. (1.) Proceedings may be initiated before the Court by reference motion, or summons, and by an industrial union, a member or officer thereof, an inspector, an employer, or the Minister.

(2.) The Court of its own motion may initiate any proceedings and summon before it such persons as it deems necessary.

(3.) No proceedings in the Court shall abate by reason of the death of any party, and such proceedings shall by order of the Court continue upon such terms and conditions as the Court thinks fit.

\* 23 Geo. V. No. 36 (this Act).

† 63 Vic. No. 9, Sch. I, *supra*, page 344.

2. Subject to this Act, the Court may, as regards every industrial cause— Powers of Court.

- (a) At or before the hearing, take steps to ascertain whether all persons who ought, in its opinion, to be bound by its decision have had notice of or have been summoned to attend the proceedings ;
- (b) Direct that persons or industrial unions shall be parties to the proceedings, and by whom such parties shall be represented ; direct that persons not summoned to attend the proceedings shall be so summoned, if the Court is of opinion, whether from the suggestion of parties or otherwise, that such persons should be so summoned ; direct parties to be joined or struck out ;
- (c) Hear and determine the cause in such manner in all respects as the Court, in its discretion, thinks best suited for that purpose ;
- (d) Allow any amendment of the proceedings on such terms as it thinks fit, correct, amend, or waive any error, defect, or irregularity, whether in substance or in form ;
- (e) Make any decision, and, without being restricted to the specific relief claimed by the parties, include in any decision any matter or thing which the Court thinks necessary or expedient for preventing or settling the industrial dispute or dealing with the industrial matter ;
- (f) Give any direction in pursuance of the decision ;
- (g) Dismiss any cause, or refrain from further hearing or from determining the cause, if it appears that the cause is trivial, or that, in the public interest, further proceedings by the Court are not necessary or desirable ;
- (h) Order any party to the proceedings to pay to any other party such expenses, including expenses of witnesses, as are specified in the order ;
- (i) Proceed to hear and determine the cause in the absence of any party thereto or other person who has been summoned or served with notice to appear therein ;
- (j) Sit in any place for the hearing and determination of the cause ; adjourn its sittings to any time and place ;
- (k) Refer any technical matters or matters of account to an expert, and accept his report as evidence :

For obtaining any special or expert information based on facts or figures which the Court may desire, the Court may call in the services of an expert or experts approved by it, and authorise such expert or experts to prepare schedules compiled from returns obtained from employers or employees or both of them (which returns they shall be compelled to furnish under penalty of contempt of court). Such expert or experts shall not divulge the name or private business of any individual employer ; but, without limiting the scope of the inquiry, such schedules may show details of the minimum or maximum and average costs of production, sale, or distribution in the calling concerned, the average net return on capital invested therein, estimates of allowances for depreciation or reserves to equalise

profits, and other like general information ; and as far as practicable such schedules shall not be confined to one year's operations ;

- (l) At any time conduct an inquiry into such matters itself ;
- (m) Extend any prescribed time whether within or after the prescribed time ;
- (n) Waive compliance with any Rule of Court ;
- (o) Review, annul, rescind, or vary any act or decision of the registrar in any manner which it thinks fit ; and
- (p) Generally to give all such directions and do all such things as it deems necessary or expedient in the premises.

Injunction,  
mandamus,  
&c.

3. The Court in the exercise of its jurisdiction over industrial magistrates may make such orders, by way of injunction, mandamus, prohibition, certiorari, or otherwise, as it thinks proper.

Costs.

4. The Court shall have jurisdiction to award costs in all matters brought before it, including matters dismissed for want of jurisdiction : but no costs shall be allowed of any counsel, solicitor, or agent except on an appeal to the Court or unless, in the opinion of the Court, it is or was in the interests of justice that counsel, solicitor, or agent should be or should have been heard.

Judgment  
and  
execution.

5. The Court in the exercise of its jurisdiction under this Act may enforce its own decisions and may enforce industrial agreements, and for these purposes may make and pronounce all such decisions or give such directions as may be necessary for doing complete justice in any proceeding before it, and for the execution of any such decision or the enforcement of any order, direction, or industrial agreement, and may direct the issue of any writ or process of the Court or impose and enforce any penalty authorised or prescribed by this Act in the same manner as a judgment of the Supreme Court is enforced, and the Registrar of the Supreme Court and the Sheriff and all bailiffs and other officers of the Supreme Court and Courts of Petty Sessions shall be deemed to be officers of the Court and shall exercise the powers and perform the duties prescribed by the Rules of Court.

Enforcement  
of orders  
and awards.

Further  
powers of  
President,  
&c.

6. In any industrial cause the President or member of the Court or registrar or assistant registrar may make any order which he thinks just as to—

- (a) Any interlocutory proceedings to be taken before the hearing, the costs thereof, the issues to be submitted to the Court, the persons or industrial unions to be served with notice of proceedings, particulars of the claims of the parties, admissions, discovery, interrogatories, inspection of documents or of real or personal property, examination of witnesses, and the place, time, and mode of hearing ; and
- (b) Any matter which, by Rule of Court, a President, member, or registrar or assistant registrar, as the case may be, is empowered to hear or deal with when sitting in chambers.

Evidence.

7. With respect to evidence in proceedings before the Court, the following provisions apply :—

- (a) On the application of any of the parties, and on payment of the prescribed fee, or, by direction of a member of the Court, without any such application or fee, the registrar

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shall issue a summons to any party or parties, or other person or person, to appear and give evidence before the Court, and any number of witnesses' names may be inserted in one summons ;

- (b) The summons shall be in the prescribed form, and may require any person therein named to produce before the Court any books, papers, and other documents in his possession or under his control in any way relating to the cause other than books, papers, or documents relating to any trade secret ;
- (c) All books, papers, and other documents produced before the Court, whether produced voluntarily or pursuant to summons, may be inspected by the Court, and also by such of the parties as the Court allows ; but the information obtained therefrom shall not be made public without the permission of the Court :

Provided that books, papers, and documents relating to the profits or financial position of any witness or party shall not, without his consent, be inspected by any person except a member of the Court unless such witness or party contends that the profits of an industry are not sufficient to permit of the payment of the wages or the granting of the conditions claimed or proposed to be paid or granted by any award, order, or industrial agreement ; and that any parts of the books, papers, and documents which in the opinion of a member of the Court do not relate to any matter in issue may be sealed up ;

- (d) Every person who is summoned and duly attends as a witness shall be entitled to the prescribed allowance for his attendance and expenses : Provided that, until otherwise prescribed or except as otherwise prescribed, the allowance shall be according to the scale for the time being in force with respect to witnesses in civil actions in the Supreme Court ;
- (e) The Court may accept, admit, and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not ;
- (f) Any party to the proceedings shall be competent and may be compelled to give evidence as a witness to the same extent as in cases in the Supreme Court ;
- (g) The Court may, if it thinks fit, dispense with evidence on any matter on which all parties have agreed in writing, or on any matter as to which the Court deems evidence to be unnecessary ;
- (h) The Court may take evidence on oath or affirmation or declaration.

8. If any person who has been duly served with a summons to appear and give evidence before the Court, and to whom payment by witness.

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or tender has been made of any travelling expenses to which he is entitled, fails to duly appear, or if any such person or any person who has appeared or appears as a witness—

- (a) Refuses to be sworn or make affirmation or declaration as a witness ; or
- (b) Refuses to answer any question which he is required by the Court to answer ; or
- (c) Refuses to produce any book, paper, or document which he is required by the Court to produce,

he shall be liable to be ordered by the Court to pay a fine not exceeding fifty pounds, unless he shows to the satisfaction of the Court that there was good and sufficient cause for such failure or disobedience.

Contempt  
of court.

9. The Court, in order to punish contempt of such Court, shall have all the protection, powers, jurisdiction, and authority which are possessed by the Supreme Court in respect of contempt of that Court ; and for that purpose the provisions of the Rules of the Supreme Court made under \* “ *The Judicature Act* ” applicable to contempt of court shall, *mutatis mutandis*, apply and be observed in the exercise, by the said Court, and of such protection, powers, jurisdiction, and authority with respect to contempt : Provided always that any motion for an order that any person be committed to prison for his contempt may be made by the registrar or any other officer of the Court.

Without limiting the generality of the foregoing provisions, if any person wilfully insults a member of the Court or registrar or any other officer of the Court during his sitting or attendance in or before the Court, or in going to or returning from the Court, or wilfully interrupts the proceedings of the Court, or otherwise misbehaves himself in or before the Court, a member of the Court may order that the offender be taken into custody and detained till the rising of the Court ; and a member of the Court may, by a warrant under his hand and sealed with the seal of the Court, commit the offender to the prison nearest to the Court for any time not exceeding fourteen days, or may impose on the offender a fine not exceeding ten pounds, and in default of payment may commit the offender to prison for any time not exceeding fourteen days unless the fine is sooner paid.

How powers  
may be  
exercised by  
Court.

10. The Court may exercise any of its powers on its own motion or on the application of any party to the proceedings, or of any industrial union connected with the calling in question, or of any person bound by the award of the Court.

Power to  
issue orders  
to take  
evidence.

11. The Court may issue an order to any person to take evidence on its behalf in relation to any industrial cause ; and that person shall have all the powers of the Court in relation to the summoning of witnesses, the production of books and documents, and the taking of evidence on oath or affirmation or declaration.

Registrar's  
powers and  
duties.

12. A member of the Court may direct the registrar to inquire into any matter as to which he requires information for the purpose of the exercise of the jurisdiction of the Court in any matter not being proceedings for a penalty under this Act, and the registrar shall inquire accordingly and report to the Court.

\* 40 Vic. No. 6 and 64 Vic. No. 6, *supra*, pages 2401 and 2410.

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For the purpose of such inquiry and for the purpose of any matter which by this Act is referred to him, the registrar may summon any persons, administer oaths and take affidavits, and examine parties and witnesses.

Every person summoned by the registrar shall be bound to attend upon such summons, and shall for disobedience thereto be liable to a penalty not exceeding fifty pounds.

13. (1.) In any proceeding before the Court it may reserve its decision. Reserved decision may be read by registrar.

(2.) Where a decision has been so reserved, the same may be given at any continuation or adjournment of the Court, or at any subsequent holding thereof, or a member of the Court may draw up such decision in writing, and, having signed the same, forward it to the registrar; whereupon the registrar shall notify the parties of his intention to read the same at some specified time and place, and he shall read the same accordingly, and thereupon such decision shall be of the same force and effect as if it had been pronounced by a member of the Court.

14. When a member of the Court is unable to attend at the time appointed for the hearing of any industrial cause or for any proceeding, the registrar may adjourn the Court, and also adjourn any business set down for the day to such day and time as he deems convenient. Adjournments of Court.

15. When any penalty is imposed in any proceedings in the Court, or any sum is by the Court ordered to be paid, and no other provision is made in this Act for the recovery thereof, a certificate in the prescribed form, under the hand of the registrar and the seal of the Court specifying the amount payable and the respective parties or persons by and to whom the same is payable, may be filed in any Court having civil jurisdiction to the extent of such amount, and shall thereupon, according to its tenor, be enforceable in all respects as if it were a judgment of such Court. Recovery of penalties and other sums ordered by the Court.

16. (1.) The registrar or, on appeal from him, the Court, may grant to any person over twenty-one years of age, who has given satisfactory proof that such person has not had the full experience prescribed for improvers by any award, a license to work as an improver for the period named in such license at such wage as the registrar or Court thinks fit, being not less than the wage fixed by such award for an improver of the like experience. License to improvers over 21 years of age.

(2.) Upon receipt of an application for a license the registrar shall forthwith give written notice thereof to the secretary of the industrial union of the calling in which the applicant desires to be employed, and shall in such notice appoint a time at which he will hear any objections to the granting of such license.

(3.) The industrial union of the calling concerned may at any time after the granting of such license apply to the registrar, or, on appeal from him to the Court, in the manner prescribed for the revocation or cancellation thereof.

University  
students.

17. The registrar or, on appeal from him, the Court may, notwithstanding the provisions of any award or industrial agreement now subsisting or hereafter to be made, grant to any student of a university, producing satisfactory evidence that a period of technical training in a calling is required to enable him to complete his student's course at such university, a license to work at such calling for such period and for such wages and subject to such conditions as the registrar or the Court may think fit; thereupon such student shall not be deemed to be an improver within the meaning of this Act or of any award or industrial agreement now subsisting or hereafter to be made.

The registrar shall forthwith notify the secretary of the industrial union of the calling in which such licensee is permitted to be employed of the grant of such license and of the conditions contained therein.

Aged or  
infirm  
workers.

18. (1.) Any aged or infirm worker who deems himself or herself unable to earn the minimum wage prescribed by any award may apply to the Court, and any industrial inspector may apply to the Court on his or her behalf, for a permit in writing to work for less than the wage so prescribed.

(2.) The Court or any industrial magistrate to whom the application has been remitted specially or by Rules of Court shall be the tribunal to determine whether and on what conditions such permit shall be granted, and shall have power to revoke or cancel any permit.

(3.) The tribunal to which such application has been so remitted shall forthwith give written notice of such application to the secretary of the industrial union of the calling in which such applicant desires to be employed, and shall in such notice appoint a time, not being more than seven or less than three days from the date of such notice, at which the said tribunal will hear objections to the grant of a permit. The said tribunal shall, at the time so appointed, and before determining whether such permit should be granted, hear objections from any authorised representative of such industrial union.

(4.) Such industrial union may, at any time after the granting of such permit, apply to the said tribunal in the manner prescribed for the revocation or cancellation thereof.

(5.) An appeal against any such determination shall not lie from the tribunal to the Court except on the ground that the calling concerned is one in which no such permit should be granted.

(6.) Any person paying or receiving a less sum than that authorised by such permit shall be liable to a penalty as for a breach of an award.

Rules of  
Court.

19. (1.) The Court may make rules—

(a) Regulating the practice and procedure and forms to be followed and used in or in connection with or for the purposes of proceedings before the Court, and in or in connection with or for the purposes of drawing up, settling, and enforcing awards, judgments, convictions, decisions, and other acts given, made, and done by the Court; regulating proceedings in chambers;

(b) As to the publication of its decisions and other acts and the effect of such publication;

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- (c) For recovering fines and penalties imposed, and enforcing orders for attachment and orders for the payment of any moneys made under this Act ;
- (d) Prescribing the fees and expenses to be paid to witnesses ;
- (e) Prescribing what (if any) fees shall be paid in respect of any proceedings in the Court, and the party by whom such fees shall be paid ;
- (f) Prescribing the mode of service of process, notices, orders, or other proceedings upon parties, persons, and industrial unions ;
- (g) Prescribing the powers, duties, and rights of any officer of the Court ;
- (h) The making and enforcement of industrial agreements ;
- (i) Delegating the jurisdiction of the Court as permitted by this Act to industrial magistrates ;
- (j) Prescribing the furnishing to the registrar of returns, lists of officers and members, and other statistical information by industrial associations ;
- (k) As to all things which this Act contemplates shall or may be prescribed by Rules of Court ; and
- (l) As may be necessary or convenient for the full and effective exercise of the jurisdiction, duties, powers, and functions of the Court, or for giving effect to the convictions, decisions, and other acts given, made, or done by the Court or the registrar or other officer of the Court.

(2.) If at the time there is only one member of the Court, the power of making such rules shall be exercisable by such member ; if there are two members, the said power shall be exercisable by the two members together ; and if there are more than two members, the said power shall be exercisable by all the members or a majority of them.

(3.) Subject to such rules and this Act, the practice and procedure of the Court shall be as directed by a member of the Court making the particular direction.

(4.) All such rules shall be published in the *Gazette* ; and thereupon shall be of the same effect as if they were contained in this Act, and be judicially noticed without further evidence than the production of a copy of the *Gazette*.

Such rules shall be laid before Parliament within fourteen sitting days after such publication if Parliament is in session, and, if not, then within fourteen \*sitting days after the commencement of the next session.

If Parliament passes a resolution disallowing any such rule, of which resolution notice has been given at any time within fourteen sitting days of such House after such rule has been laid before it, such rule shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

(5.) For the purpose of this Schedule, the term " sitting days " shall mean days on which the House actually sits for the despatch of business :

Provided always that if such rules are not duly laid before Parliament as hereinbefore prescribed they shall thereupon cease to have any force, effect, or operation whatsoever.

\* Words " days sitting " verbally transposed.