
INDUSTRIAL RELATIONS ACT 1975

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INDUSTRIAL RELATIONS

—
 No. 59 of 1975
 —

AN ACT to make provision for the regulation of industrial relations.
[22 December 1975]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I

PRELIMINARY

1 This Act may be cited as the *Industrial Relations Act 1975*. Short title.

2—(1) In this Act, unless the contrary intention appears— Interpretation.
 “award” means such an award as is referred to in Division I of Part III;

- “ board ” means an industrial board established under Division III of Part II;
- “ chairman ” means the Chairman of Industrial Boards appointed under Division II of Part II;
- “ deputy chairman ” means the Deputy Chairman of Industrial Boards appointed under Division II of Part II;
- “ employee representative ” means an employee representative referred to in section 10;
- “ employer representative ” means an employer representative referred to in section 10;
- “ representative member ” means an employer representative or an employee representative.

(2) For the purposes of this Act an industry means any industry, trade, business, undertaking, profession, calling, function, process, or work performed, carried on, or engaged in by an employer.

(3) For the purposes of this Act an industrial dispute means a dispute in relation to any matter for which provision has been or could be made in an award under this Act (notwithstanding that there is not presently existing a board by which such an award could be made), and includes a dispute relating to—

- (a) the engagement, dismissal, or reinstatement of any particular employee or class of employees; or
- (b) the entering into, execution, or termination of any contract for services in circumstances that affect, or may affect, an employee in, or in relation to, his work,

and, for the purposes of this Act, an industrial dispute shall be deemed to have arisen where there has arisen a situation in which an industrial dispute is threatened or impending or seems probable.

Application to
the Crown.

3 This Act binds the Crown.

PART II

ADMINISTRATION

Division I—Central Administration

Functions of
Secretary for
Labour.

4 The Secretary for Labour is, subject to the direction of the Minister, responsible for the administration of this Act.

Inspectors.

5 The Governor may, in accordance with the *Public Service Act* 1973, appoint inspectors and other officers for the purposes of this Act.

Division II—The Chairman and Deputy Chairman of Industrial Boards

6—(1) The Governor may appoint—

- (a) a Chairman of Industrial Boards; and
- (b) a Deputy Chairman of Industrial Boards.

Chairman and
Deputy
Chairman
of Industrial
Boards.

(2) Subject to this section, the chairman and the deputy chairman each cease to hold office on attaining the age of 65 years.

(3) Except on an address praying for his removal from office on the ground of proved incapacity or misbehaviour presented to the Governor by both Houses of Parliament, the Governor shall not remove the chairman or the deputy chairman from office unless he—

- (a) engages in paid employment outside the duties of his office;
- (b) applies to take, or takes, advantage of any law relating to bankruptcy, or compounds, or enters into an arrangement, with his creditors, or makes an assignment of the salary or allowances payable to him under this Act for their benefit;
- (c) is convicted (whether in this State or elsewhere) of an offence of such a nature that, in the opinion of the Governor, it is not proper that he should be permitted to continue to hold office;
- (d) absents himself from the duties of his office, except on leave granted by the Governor, for more than 21 days in any period of 12 months; or
- (e) becomes, in the opinion of the Governor, permanently incapable of performing the duties of his office.

(4) The Governor shall not suspend the chairman or the deputy chairman from office except on the grounds of incapacity or misbehaviour.

(5) Where the chairman or the deputy chairman has been suspended by the Governor he shall be restored to his office unless—

- (a) a statement of the grounds of the suspension is laid before each House of Parliament during the first 7 sitting days of that House following the suspension; and

(b) each House of Parliament, within 30 sitting days after the statement is so laid before it, passes an address praying for his removal from his office on the grounds of proved incapacity or misbehaviour.

(6) The chairman and the deputy chairman, and any person performing the duties of either office by virtue of an appointment under section 21 of the *Acts Interpretation Act 1931*, shall be paid such salary and allowances as the Governor may determine.

(7) The salaries and allowances payable under this section, as determined for the time being, shall be paid out of the Consolidated Revenue (which, to the necessary extent, is appropriated accordingly).

(8) The chairman and the deputy chairman shall, before proceeding to discharge the duties of his office, take before a judge of the Supreme Court an oath or affirmation in accordance with the form set forth in Schedule I.

Functions of
deputy
chairman.

7—(1) Subject to any directions given to him by the chairman, the deputy chairman may exercise any of the functions of the chairman under this Act, including his functions as chairman of an industrial board, and anything done by the deputy chairman in the exercise of those functions has the like effect as if it were done by the chairman.

(2) The deputy chairman shall not sit as the chairman of a board for the purpose of hearing any proceedings unless he is directed so to do by the chairman, or the chairman is absent or unable to act in those proceedings.

Division III—Industrial Boards

Establishment
of industrial
boards.

8—(1) The Governor may by order establish an industrial board for an industry.

(2) An order under this section shall define the industry within which the board has jurisdiction, and may assign a name to that board.

(3) The same board may have jurisdiction in several industries.

(4) The Governor may, by order—

(a) alter the jurisdiction of a board;

(b) alter the name of a board; or

(c) abolish a board.

(5) An order under this section may, in relation to any industry, limit the jurisdiction of a board to a part only of this State; and in

such a case the board has jurisdiction within that industry to the extent only that it is carried on in that part of the State.

9—(1) Where an order is made under section 8 for the establishment of a board the Minister shall cause to be published in the *Gazette* and in a newspaper published at Hobart, a newspaper published at Launceston, and a newspaper published at Burnie, a notice of the making of the order—

Notice of establishment of boards.

- (a) specifying the industry in which the board will have jurisdiction; and
- (b) requiring each employer engaged in that industry to furnish to the Secretary for Labour, before the date specified in the notice, a return setting forth—
 - (i) his name, the address of his places of business, and his occupation; and
 - (ii) particulars of type of work and number of persons employed by him in that industry.

(2) An employer who fails to comply with the requirement contained in a notice pursuant to subsection (1) (b) is guilty of an offence and liable to a penalty of \$200.

(3) The Secretary for Labour shall prepare for the information of the board a summary of the returns furnished in accordance with the requirement referred to in subsection (1).

10—(1) Each board shall consist of the chairman and such number of representative members as the Minister determines by a declaration in writing.

Constitution of boards.

(2) The representative members of a Board shall be appointed by the Minister in accordance with this Act.

(3) Of the representative members there shall be equal numbers of employer representatives and employee representatives.

(4) Of the employer representatives of a board not more than one-half shall be persons who are not employers engaged within an industry within the jurisdiction of the board.

(5) Of the employee representatives of a board not more than one-half shall be persons who are not employed in an industry within the jurisdiction of the board.

(6) Where the number of employer representatives or the number of employee representatives of a board is an odd number that number shall, for the purposes of subsections (4) and (5), be treated as if it were the next highest even number.

(7) A variation of the number of representative members of a board may have effect only at the expiration of the terms of office of the existing representative members thereof, unless the variation is made in consequence of the alteration of the jurisdiction of the board.

Remuneration
of representa-
tive members.

11 The representative members of a board shall be paid such fees, allowances, and sums by way of reimbursement of expenses as may be prescribed or as may be determined as prescribed.

Qualifications
of representa-
tive members.

12—(1) Subject to this section, a person is qualified to be a member of a board as an employer representative if he resides in the State and—

- (a) is an employer or a managing expert in an industry in which the board has jurisdiction, who has had at least 12 months' actual experience in that industry acquired within the past 5 years;
- (b) has had at least 12 months' actual experience in the management of the affairs of a body corporate engaged in such an industry acquired within the past 5 years; or
- (c) is an officer of an organization of employers the membership of which consists of or includes employers engaged in such an industry.

(2) Subject to this section, a person is qualified to be a member of a board as an employee representative if he resides in the State and—

- (a) is an employee in an industry in which the board has jurisdiction who has had at least 12 months' actual experience in that industry acquired within the past 5 years;
- (b) is an officer of an organization of employees, being an organization the membership of which consists of or includes persons employed in such an industry; or
- (c) is an officer of the body known as the Tasmanian Trades and Labour Council.

(3) For the purposes of this section, service as an officer of such an organization as is mentioned in subsection (1) (c) or subsection (2) (b) shall be regarded as service in the relevant industry.

(4) A legal practitioner is not qualified to be a member of a board other than a board having jurisdiction in respect of persons employed in the calling of a legal practitioner.

(5) The Crown shall not be regarded as an employer for the purposes of this section.

(6) Subject to section 18, but notwithstanding any other provision of this Act, no person shall be appointed a representative member of a board unless he is qualified to be that member and a nomination of any person for appointment as a representative member of a board is of no effect unless he is qualified to be that member.

13—(1) Subject to this Act, the representative members of a board hold office for a period of 3 years and for such further periods as their terms of office may be extended under section 14. Term of office of representative members.

(2) Notwithstanding anything in subsection (1) where at the expiration of the period referred to therein no new appointments have been made of representative members of a board, or the term of office of the existing members has not been extended under section 14, the term of office of those members shall be deemed to be extended until the time at which those new appointments are made or their term of office is extended under that section.

(3) A representative member may resign his office by notice in writing to the Minister, and on the receipt of that notice by the Minister he ceases to be a member of the board.

(4) The Governor may, by order published in the *Gazette*, remove from office a representative member of a board.

(5) Where the Governor removes a representative member of a board and it is stated in the order by which he is removed that that member has been so removed on the grounds that he has been absent from two consecutive meetings of the board without reasonable excuse he is not qualified to be a member of that board during the 5 years following the date on which he is so removed.

(6) A representative member of a board vacates his office on his ceasing to be qualified to be a member of that board.

14—(1) The Minister may, by order published in the *Gazette*, declare that the persons who, immediately before the retiring date, are the representative members of a board, shall continue in office as representative members of that board for a further period of 3 years from that date, and their term of office is extended accordingly. Extension of term of office of representative members.

(2) Before making an order under subsection (1) the Minister shall cause a notice of his intention to make the order to be published in the *Gazette* and in a newspaper published at Hobart, a newspaper published at Launceston, and a newspaper published at Burnie, and each of those notices shall contain a statement of the substance of subsection (3).

(3) If, within one month of the last publication of a notice under subsection (2), notice in writing objecting to the making of the order is given—

- (a) by an employer engaged in an industry within which the board has jurisdiction; or
 - (b) by not less than 5 employees engaged in the industry,
- the Minister shall not make the order.

(4) An order shall not be made under this section in respect of the representative members of the board earlier than 2 months before the retiring date, but may be made after that date.

(5) In this section, “retiring date” means, in relation to the representative members of a board, the date on which those members would, if no order were made under subsection (1), and disregarding the operation of section 21 (3) of the *Acts Interpretation Act* 1931, cease to hold office as such by reason of the effluxion of time, unless they are reappointed representative members of the board.

Nominations
for initial and
periodical
appointments.

15—(1) Where any representative members of a board are required to be appointed—

- (a) on the establishment of the board; or
- (b) on the expiration by the effluxion of time of the term of office of the representative members of the board,

the Minister shall publish in the *Gazette* and in a newspaper published at Hobart, a newspaper published at Launceston, and a newspaper published at Burnie a notice specifying the number of employer representatives and the number of employee representatives so required to be appointed.

(2) The notice referred to in subsection (1) shall state the name of the board and specify the industry within which it has jurisdiction.

(3) A nomination of a person for appointment as an employers' representative on a board as mentioned in subsection (1) may be made by—

- (a) an employer who is engaged in an industry within the jurisdiction of the board; or

(b) an organization of employers the membership of which consists of or includes persons who are engaged in such an industry.

(4) A nomination of a person for appointment as an employees' representative on a board as mentioned in subsection (1) may be made by—

(a) an employee who is engaged in an industry within the jurisdiction of the board;

(b) an organization of employees the membership of which consists of or includes employees so engaged; or

(c) the body known as the Tasmanian Trades and Labour Council.

(5) A nomination under this section shall be made within 14 days after the last publication of the notice referred to in subsection (1).

16—(1) Subject to this section, where a person is required to be appointed a representative member of a board as mentioned in section 15 and a person is duly nominated for that appointment, the Minister shall appoint that person a member of the board as that representative member. Making of initial and periodical appointments.

(2) Where, in any case, the number of persons duly nominated for appointment as representative members of a board exceeds the number required to be appointed, the Minister shall appoint from among those nominated the number required to be appointed.

(3) The Minister shall publish in the *Gazette* a notice setting out the names and the addresses of the places of abode or business and the occupations of persons appointed under this section, and the fact of their appointment.

17—(1) Where a representative member of a board dies or ceases to hold office otherwise than by reason of the effluxion of time, and within 14 days of the occurrence of the vacancy a nomination of a person to fill the vacancy is made to the Minister by— Filling of casual vacancies.

(a) in the case of a vacancy in the office of an employer representative, the remaining employer representatives; or

(b) in the case of a vacancy in the office of an employee representative, the remaining employee representatives,

he shall appoint the person so nominated to the vacancy.

(2) A representative member appointed to fill a vacancy under this section holds office only for the remainder of the term of office of the member in whose place he is appointed, and for such further period as his term of office may be extended pursuant to section 14.

Unavailability
of persons
qualified for
appointment.

18—(1) Where a representative member of a board is required to be appointed and no person has been nominated for appointment the Minister may appoint a person who is a resident of the State of Tasmania and is otherwise not qualified to be that member if he is satisfied that no suitable persons so qualified are available for appointment.

(2) An appointment may be made under subsection (1) on the nomination of a person, organization, or body entitled to nominate a person for that appointment.

(3) Where the Minister appoints a representative member of a board under this section he shall in the instrument of appointment state that he is so appointed and so long as he remains a member of the board he shall be deemed to be qualified to be that member.

(4) Where the Minister is satisfied that there are no suitable persons available for appointment as representative members of a board, the Minister may direct the chairman to exercise the functions of the board; and those functions may be so exercised until any representative members of the board are appointed.

(5) Where there is a vacancy in the membership of a board and the Minister is satisfied that it is impracticable to fill the vacancy, he may, by notice in writing to the chairman, authorize the board to act notwithstanding that vacancy.

Proceedings in
respect of
qualifications,
&c.

19—(1) Proceedings may be instituted before a magistrate against any person acting as a representative member of a board on the ground—

(a) that he has not been duly appointed as that representative member; or

(b) that he is not qualified to be that representative member.

(2) Any such proceedings as are referred to in subsection (1) shall be by way of complaint.

(3) In any proceedings under this section the magistrate (unless he dismisses the complaint) shall, if he is satisfied that the person to whom the proceedings relate was not duly appointed or that he is not qualified as mentioned in subsection (1), declare his office vacant, and the office shall be deemed to have become vacant on the making of the declaration.

20 Provision may be made in accordance with the *Public Service Act 1973* for the appointment of an officer of the Department of Labour and Industry to act as the secretary of a board, and a person so appointed to act shall be deemed to be the secretary of that board. Secretary of a board.

21—(1) The meetings of a board shall be convened by the chairman, and he shall convene a meeting of a board if he is required to do so by the Minister in writing. Convening of meetings of a board.

(2) A meeting of a board shall be convened by—

(a) publishing at least 10 days before the meeting a notice thereof in a newspaper published at Hobart, a newspaper published at Launceston, and a newspaper published at Burnie; and

(b) serving notice of the meeting in writing on each representative member of the board.

(3) The notice required by subsection (1) (b) to be served on a representative member shall be served—

(a) by delivering it to him personally; or

(b) by sending it by post addressed to him at his usual or last known place of abode or business,

and shall be so served at least 10 days before the meeting.

(4) Subsection (3) does not apply in the case of a person who is appointed a member during the period of 10 days referred to therein and, in such a case, a notice of the meeting shall be given to that member at such time and in such manner as the chairman may direct.

(5) Where the Minister considers it desirable for the purpose of preventing or settling an industrial dispute he may convene a meeting of a board.

(6) A meeting of a board convened under subsection (5) may be held at such time and place as the Minister may direct and, notwithstanding anything in the foregoing provisions of this section, it shall not be necessary to publish notice of the meeting as required by subsection (2) or to give the members of the board more than 48 hours' notice of the meeting and any such notice may be given by telephone or telegram or otherwise, as the Minister may consider convenient in the circumstances.

22—(1) Subject to this section the quorum at a meeting of a board is constituted by the chairman and at least half the employer Quorum at meetings of a board.

representatives for the time being members of the board and at least half the employee representatives for the time being members of the board.

(2) Where the number of employer representatives or the number of employee representatives is not divisible by two that number shall, for the purposes of subsection (1), be taken to be increased by one.

(3) Subject to subsection (4), if at the time fixed for the commencement of a meeting of a board a quorum is not present the chairman shall adjourn the meeting for such time (being not less than 30 minutes) as he thinks desirable, and if at the expiration of that time a quorum is not present, the chairman may declare the meeting duly constituted and the members then present shall be deemed to constitute a quorum for that meeting.

(4) The chairman shall not adjourn a meeting pursuant to subsection (3) unless he—

- (a) has made due inquiry as to the reasons why each absent member is not present at the meeting; and
- (b) is satisfied, as the result of his inquiry, that the absence of each such member is due to circumstances beyond the control of that member.

Proxies.

23—(1) Subject to this section, a representative member of a board may appoint another person as his proxy to act in place of that member for a specified period.

(2) A person shall not be appointed as a proxy of a representative member of a board under this section unless he is qualified to be that representative member.

(3) An appointment under this section shall be in writing signed by the representative member by whom it is made and shall be delivered to the chairman or the secretary of the board and shall not have effect until it is so delivered.

(4) In accordance with the terms of his appointment, a proxy has all the rights and obligations of the representative member by whom he was appointed and anything done by him has the like effect as if it were done by that member.

**Determination
of questions
by a board.**

24—(1) Subject to this Act, all acts of a board and all questions coming or arising before a board shall be done and decided by a majority of the representative members thereof present and voting

thereon at a meeting of the board; and, in the case of an equality of votes on any matter before a meeting of the board, the question may be determined by the chairman.

(2) If at a meeting of a board a majority of the members present request him so to do, the chairman may decide any question before the meeting of the board, and his decision on that matter has the like effect as a decision of the board.

(3) Before deciding any question pursuant to subsection (1) the chairman shall take such steps as he thinks suitable in the circumstances, whether by adjourning the meeting of the board, by making suggestions, consulting with members of the board, or otherwise, to endeavour to secure that the matter to which the question relates is determined otherwise than by his decision under that subsection.

(4) References in subsection (3) to the steps which the chairman may take shall be construed as including reference to action under section 32.

25—(1) Subject to this Act a board may regulate its own procedure but, subject to any decision of a board, the chairman may determine any matter of procedure arising at a meeting of the board.

Procedure of a board generally.

(2) Without prejudice to the power of a board to adjourn a meeting of the board, the chairman may adjourn a meeting of a board if he considers it desirable so to do.

26—(1) An organization of employers or employees may make application in writing to the chairman to be represented at any meeting of a board at which a matter affecting any of the members of that organization are being considered.

Representation of organizations at meetings of a board.

(2) The chairman may approve an application under this section if he is satisfied that any of the members of the organization are engaged in an industry within which the board has jurisdiction.

(3) Where the chairman approves an application under this section, a representative of the organization may, with the approval of the chairman, attend any meeting of the board while any matter affecting any of the members of that organization is being considered at that meeting.

(4) Where a representative is entitled to attend a meeting of a board under this section he may, subject to any directions given by the

board and the exercise by the chairman of his powers under section 25, while he so attends, make submissions to the board and take part in the discussion of any matter before the board.

(5) Where a representative attends a meeting of a board under this section he shall be paid—

- (a) living expenses (if incurred) at such rate as the Minister approves;
- (b) the amount of salary, wages, or earnings actually lost during the time occupied in travelling to and from, and attending, the meeting; and
- (c) the amount of any fares actually and properly incurred by him in travelling to and from the meeting, or, if he provides his own means of transport, a sum equivalent to the amount of the fares that would have been incurred by that person if he had travelled by the appropriate means of public transport.

Powers of
board to
call witnesses,
&c.

27—(1) Subject to this section, where a board considers it necessary or desirable to inquire into any matter in relation to the exercise of its functions under this Act, Division II of Part II of the *Evidence Act* 1910 applies to that inquiry as if—

- (a) the board were such a board of inquiry as is referred to in section 14 (1) (b) of that Act; and
- (b) the matter were the matter into which it was appointed to inquire by its instrument of appointment.

(2) Notwithstanding anything in the *Evidence Act* 1910 any person who attends before a board for the purpose of giving evidence when summoned so to do is entitled to be paid such fees, allowances, and sums by way of reimbursement of expenses as may be prescribed.

Record of
board decisions.

28—(1) The secretary of a board shall cause to be entered in a book kept for the purpose a record of the decisions made at a meeting of the board.

(2) The record referred to in subsection (1) shall set forth only—

- (a) the decisions of the board with respect to matters considered by the board at the meeting; and
- (b) where the reasons for any decision made by the chairman have been given in writing, a copy of those reasons.

(3) Where a decision made at a meeting of the board has been recorded in accordance with subsection (1) the chairman, if the Board agrees the decision is correctly recorded, shall sign the record, and the secretary of the board shall forward a copy thereof to each member of the board.

(4) The secretary of a board shall ensure that there is available in his office for inspection by any member of a board the records, or copies of the records, of the decisions of the board signed in accordance with this section, and any such member shall, at all reasonable times, be entitled to inspect the records, or the copy thereof, so made available.

(5) Any record purporting to be signed in accordance with this section shall be deemed to be a correct record of the matters contained therein, and shall be received in evidence without further proof.

PART III

INDUSTRIAL AWARDS AND SIMILAR MATTERS

Division I—Awards

29—(1) It is the function of a board to make awards in accordance with this Act in respect of any industry within which it has jurisdiction. Awards.

(2) An award under this Act may contain provisions with respect to any industrial matter and, without affecting the generality of this subsection, industrial matters include all matters relating to—

- (a) rates of remuneration, whether as wages rates or piecework rates, or variations thereof or additions thereto, or extra or special payments;
- (b) hours or days of work, or variations thereof, or additions thereto;
- (c) the granting of leave from work;
- (d) the privileges, rights, and duties of employers and employees;
- (e) the mode, terms, or conditions of employment;
- (f) the relations of employers and employees;
- (g) the employment or non-employment of persons of a particular sex or age; or
- (h) the determination or definition of the functions of any employees or class of employees.

(3) An award shall not contain any matter relating to—

- (a) the opening or closing hours of an employer's business premises;
- (b) the granting of long service leave;
- (c) a superannuation scheme; or
- (d) a bonus payment made by the discretion of an employer.

(4) Without prejudice to the generality of the foregoing provisions of this section an award may make provision specifying the manner in which any rates of remuneration are to be fixed for the time being, whether by reference to a basic wage or to any other matter, whether or not that other matter is or is to be determined under an industrial award.

(5) An award may specify the period during which the award, or any provisions thereof, are to remain in force and, subject to subsection (6), that award, or those provisions, as the case may be, have effect accordingly.

(6) An award may be made so that it or any of its provisions have effect, in whole or in part, from a date, or in respect of a period commencing, before the date on which the award is made.

(7) An award may—

- (a) provide for the settling of disputes as to questions of fact, but not as to questions of law, arising thereunder or arising in respect of matters to which the award relates, by the Secretary for Labour or the chairman; and
- (b) in respect of any matter to which the award relates, require anything to be done to the satisfaction of the Secretary of Labour or the chairman or prohibit anything being done without the consent of the Secretary of Labour or the chairman.

(8) References in this Act to a rate of remuneration fixed by an award shall be construed as including reference to a rate of remuneration determined in accordance with the provisions of an award.

(9) An award may amend or may replace or rescind an existing award, and an award amended by a subsequent award continues to have effect as so amended, and an award ceases to have effect if it is replaced or rescinded by a subsequent award.

(10) An award has effect subject to the provisions of any Act dealing with the same matter and in particular, and without affecting the generality of this subsection, is subject to—

- (a) the *Apprentices Act 1942*;

- (b) the *Long Service Leave Act* 1956;
- (c) the *Public Health Act* 1962;
- (d) the *Factories, Shops, and Offices Act* 1965; and
- (e) the *Mines Inspection Act* 1968.

30—(1) In accordance with an application made under this section the chairman, without convening a meeting of a board for the purpose, may make an award amending a previous award.

Variation of an award without a meeting of a board.

(2) An application under this section for the amendment of an award may be made by all the representative members of the board having jurisdiction in the industry to which the award relates specifying the amendment that it is desired should be made.

(3) The chairman may refuse to make an award under this section if he is of the opinion that the matter to which the application relates is of such importance that it ought to be considered at a meeting of a board.

(4) The secretary of a board shall cause to be made in the book required to be kept under section 28 a record of applications made under this section relating to an industry within the jurisdiction of the board and the decision of the chairman thereon.

31—(1) In accordance with this section the chairman may make an award having the effect of modifying or affecting the operation of the awards of the boards specified therein, being not less than 5 in number.

Common rule awards.

(2) An application for an award under this section in relation to any matter may be made to the Minister by—

- (a) an organization of employers, the membership of which includes or comprises employers engaged in any of the industries to which the award is to relate;
- (b) the body known as the Tasmanian Trades and Labour Council; or
- (c) subject to subsection (3), any organization of employees.

(3) An application shall not be made under subsection (2) (c) in relation to any matter by an organization of employees unless—

- (a) those employees, or any of them, have an interest in that matter; and
- (b) an award in the matter would not affect the members of any other organization of employees.

(4) The Minister may refer to the chairman an application made to him under this section and, on so doing, he shall cause notice thereof to be published in a newspaper published at Hobart, a newspaper published at Launceston, and a newspaper published at Burnie, and any such notice shall—

- (a) state the matter to which the application relates; and
- (b) state the time (being a time not earlier than 10 days after the publication of the notice) before which the chairman will receive submissions from any organizations concerning the application.

(5) In accordance with this section the chairman shall conduct a hearing on an application referred to him under this section, and there is entitled to be heard thereat the organization by which the application was made and any other organization of employers or of employees that has before the time specified in the notice referred to in subsection (4) made submissions to the chairman in relation to the application.

(6) A hearing referred to in subsection (5) shall be conducted at such time and place as the chairman may notify the organizations entitled to be heard thereat.

(7) References in subsection (5) or subsection (6) to an organization shall be construed as including references to the body known as the Tasmanian Trades and Labour Council.

(8) After conducting a hearing into an application referred to him under this section the chairman may, subject to this section, make an award in relation to the matter to which the application relates.

(9) Subject to the following provisions of this section an award shall not be made under this section in relation to any matters other than—

- (a) a basic wage;
- (b) a minimum wage;
- (c) standard hours of work;
- (d) paid leave of absence;
- (e) any matter that is determined in an award made under the Commonwealth Act that affects or relates to industries in which at least 5 boards have jurisdiction.

(10) Subsection (9) does not apply if the award is made on an application jointly made by—

- (a) an organization of employers, the membership of which comprises or includes employers engaged in each of the industries to which the application relates; and

(b) the body known as the Tasmanian Trades and Labour Council.

(11) In this section "Commonwealth Act" means the *Conciliation and Arbitration Act 1904-1974* of the Commonwealth, and includes that Act as amended from time to time and any Commonwealth Act passed in substitution for that Act.

32—(1) Where the chairman is of opinion that it is desirable to do so for the purpose of resolving an industrial matter that does not extend to the whole of an industry within the jurisdiction of a board he may require the parties who appear to him interested in the resolution of the matter to appoint representatives to meet and negotiate with the object of reaching agreement therein. Industrial agreements.

(2) If such a requirement has been made as mentioned in subsection (1) the chairman may take such steps as he considers suitable in the circumstances by making suggestions, consulting with individual representatives, or otherwise, to facilitate the reaching of an agreement between the parties.

(3) Where an agreement has been reached in pursuance of a requirement made under subsection (1) and the chairman is satisfied that the agreement has been executed by, or on behalf of, all the parties on whom the requirement has been made and that it contains provisions that could have been contained in an award made by a board for the time being established under this Act he shall certify that agreement as an award having effect under this Act.

(4) Where an agreement is certified in accordance with subsection (3) that agreement has the like effect as an award under this Act, and this Act applies in relation thereto accordingly.

33—(1) Each award shall be signed by the chairman and, on so signing the award, the chairman shall notify the Minister that the award has been made and shall cause him to be furnished with a copy thereof. Publication of awards.

(2) The Minister shall cause to be published in the *Gazette* a notice of the making of an award notification of which has been given to him under subsection (1).

(3) Subsections (1) and (2) do not apply to agreements having effect as awards pursuant to section 32.

(4) A copy of each industrial award shall be filed in the office of the Secretary of Labour and be open to inspection by any person interested in or affected by the award.

(5) On the making of an award the Secretary of Labour shall cause a copy thereof to be served on each employer in an industry to which the award relates who has forwarded a return as required by section 9 and on each person who has requested to be furnished with a copy of the award.

Validity of awards, etc.

34—(1) An award shall not be void or in any way vitiated by reason merely of any informality or error of form, or the failure to comply with any of the matters required by this Act as preliminary to the making of the award.

(2) The chairman shall not sign an award under section 33 (1) unless it appears to him that the provisions thereof are in accordance with the law.

(3) A person desiring to challenge or dispute an award for the illegality thereof or the refusal of the chairman to sign an award under section 33 (1) may apply to the Supreme Court, upon motion supported by affidavit, for a rule calling, as the case may be, upon the board to show cause why the award should not be quashed, in whole or in part, or upon the chairman to show cause why he should not sign the award.

(4) The Supreme Court may make absolute or discharge the rule referred to in subsection (3), with or without costs.

(5) No award and no decision of the chairman pursuant to section 33 (1) shall be challenged or disputed for illegality otherwise than in accordance with this section.

Evidence of awards.

35 Evidence of an award may be given by the production of a document purporting to be a copy of that award certified as correct by the chairman or by the secretary of the board by which it was made.

Extension of awards by regulation.

36—(1) Subject to this section, regulations under this Act may extend the operation of an award or any provisions thereof to any work not otherwise subject to the award; and any such regulations may provide for the extension of that operation for a limited period.

(2) Regulations under this section have no effect in relation to any work that, apart from the operation of those regulations, is subject to some other award.

(3) Where the operation of an award is extended by regulations made for the purposes of this section that award operates as so extended and references in this Act to an award shall be construed as including references to an award as so extended.

37 Where evidence is given in any proceedings before a board or the chairman relating to a trade secret or to the profits or financial position of a witness or party, no person shall disclose or publish that evidence without the consent of the person entitled to the trade secret or that witness or party, as the case may be.

Disclosure of trade secrets, &c.

Penalty: \$5 000 or two years' imprisonment, or both.

Division II—Industrial Appeals Tribunal

38 In this Division—

Interpretation of Division II.

“ appropriate organization ”, in relation to an appeal against an award, means—

- (a) any organization of employers, the membership of which includes or comprises employers engaged in any of the industries to which the award relates;
- (b) the body known as the Tasmanian Trades and Labour Council; or
- (c) any organization of employees, the membership of which includes or comprises persons engaged in any of the industries to which the award relates;

“ President ” means the President of the Tribunal;

“ Registrar ” has the meaning assigned to that expression by section 39 (6);

“ Tribunal ” means the Industrial Appeals Tribunal established under this Division.

39—(1) There shall be an Industrial Appeals Tribunal which shall consist of a president and two other members appointed by the Governor.

Industrial Appeals Tribunal.

(2) The President shall be a person who appears to the Governor to have appropriate experience in industrial matters and who holds office, or is eligible to hold office, as a judge of the Supreme Court.

(3) The members of the Tribunal, other than the President, shall be persons having experience in industry, one of whom shall be appointed to represent employers and one to represent employees.

(4) The Governor may appoint a deputy of the President or any member of the Tribunal and in the event of the President or a member being unable or unwilling to act in relation to any appeal his deputy may act in his stead, and anything done by a deputy in so acting has the like effect as if it were done by the President or member whose deputy he is.

(5) The members of the Tribunal and their deputies hold office in accordance with the terms of their instrument of appointment, but any such member or deputy may resign his office by notice in writing to the Minister.

(6) Provision may be made in accordance with the *Public Service Act 1973* for the appointment of an officer of the Department of Labour and Industry to act as Registrar of the Tribunal, and references in this Division to the Registrar shall be construed as references to the officer so appointed.

(7) The Minister shall pay to the members of the Tribunal such remuneration or allowances as the Governor may determine.

Appeals to
the Tribunal.

40—(1) In accordance with this Division any appropriate organization may appeal to the Tribunal against an award otherwise than on a matter of law.

(2) On the hearing of an appeal under this Division in respect of an award the Tribunal may—

- (a) confirm the award with or without amendment;
- (b) quash the award and make another award in its place; or
- (c) quash the award without making any further award.

(3) Where an award is under this Division confirmed with amendment that award has effect as so amended as an award under Division I of this Part and any award made by the Tribunal in substitution for an award has the like effect as an award made under Division I of this Part.

(4) A person desiring to challenge or dispute, for the illegality thereof, a decision of the Tribunal, or any award as it has effect as made or amended by the Tribunal, may apply to the Supreme Court, upon motion supported by affidavit, for a rule calling upon the Tribunal to show cause why the decision or the award should not be quashed in whole or in part; and the Court may make absolute or discharge the rule, with or without costs.

(5) A decision of the Tribunal shall not be challenged or disputed for illegality otherwise than under this section.

41—(1) An appeal under this Division with respect to an award shall be made by lodging within 21 days of the making of the award or, if an application has been made in respect of the award under section 34 (3), of the final determination of the application a notice of appeal with the Registrar, stating—

Proceedings
on appeals.

- (a) the award in respect of which the appeal is brought;
- (b) the organization bringing the appeal; and
- (c) the grounds of the appeal.

(2) Where a notice of appeal is lodged under subsection (1) in respect of any award the operation of that award is thereupon suspended until the determination of the Tribunal on the appeal, but nothing in this subsection affects the validity of anything done before the lodging of the notice of appeal.

(3) Where a notice of appeal is lodged with the Registrar he shall give such notice as may be prescribed and such further notice as the President may in any particular case direct of the date and place at which the appeal will be held.

(4) Any appropriate organization is entitled to appear before the Tribunal on the hearing of an appeal.

(5) Any organization entitled to appear before the Tribunal may appear by its representative and that representative may adduce evidence and may examine any witnesses appearing before the Tribunal.

(6) The Tribunal may adjourn the hearing of an appeal at any time on notice to the parties appearing before the Tribunal in those proceedings.

(7) In any proceedings the Tribunal shall direct itself by the best evidence that it can obtain or is laid before it, whether that evidence would be admissible in a court or not.

(8) Division II of Part II of the *Evidence Act* 1910 applies to the proceedings in any appeal before the Tribunal as if—

- (a) the Tribunal were such a tribunal as is referred to in section 14 (1) (b) of that Act; and
- (b) the matter the subject of the appeal were the matter into which it was appointed to inquire by its instrument of appointment.

Commencement
of Division.

42 This Division shall commence on a date to be fixed by proclamation.

Division III—Enforcement of industrial awards

Entitlement to
award rates of
remuneration.

43—(1) Subject to this section, where an employee is employed by an employer in work for which a rate of remuneration is fixed by an award he is entitled to be paid by his employer in respect of that work remuneration at the rate so fixed.

(2) Subject to the provisions of an award, where an employee performs two or more classes of work for which differing rates of remuneration are fixed by an award, he is entitled to be paid in respect of the time occupied in each class of work at the rate so fixed therefor.

(3) Except as provided in subsection (2), where an employee is, during any part of a day, employed by an employer in work for which a wages rate is fixed by an award, he is entitled to be paid at that rate for any other work done by him in the employment of that employer during any other part of that day.

(4) Except as otherwise provided in an award, where by reason of any act, default, or order of an employer an employee (not being an employee who is employed on a casual or part-time basis) works in any one week for less than the maximum number of hours fixed by the award relating to his employment, he is entitled to be paid, in respect of the work performed by him during that week, wages at the rate fixed by the award for a full week's work if, at all times during the ordinary working hours in that week, he is ready and willing to work.

Piecework
rates.

44—(1) Subject to subsection (2), where in respect of any work wages rates are fixed by an award and no piece rates are so fixed, no person shall, directly or indirectly, pay piecework rates, or authorize or permit piecework rates to be paid, in respect of that work.

(2) Where by an award piecework rates only are fixed by an award in respect of any work no person shall, directly or indirectly, pay wages rates, or authorize or permit wages rates to be paid, in respect of that work.

(3) If an award fixes wages rates in respect of any work but permits piecework rates to be fixed for that work, an employee employed at piecework rates on that work shall be entitled to receive remuneration for that work at piecework rates based on the earnings of an average worker working at that work at the wages rates so fixed.

(4) In any proceedings for an offence under section 45 in respect of the payment of piecework rates in a case to which subsection (3) applies, the onus of proving that those piecework rates were properly fixed in accordance with that subsection lies on the defendant.

45—(1) An employer who does not pay an employee the remuneration to which that employee is entitled to be paid under section 43 or section 44 is guilty of an offence. Offences in relation to remuneration.

(2) A person who contravenes any of the provisions of subsection (1) or subsection (2) of section 44 is guilty of an offence.

(3) Where, by virtue of an award, an employee is entitled to be paid any sum by his employer, that employer is guilty of an offence if that sum is paid otherwise than in money without any deductions other than those that may be authorized by an award or prescribed.

(4) A person who accepts remuneration for any work at a lower rate than that to which he is entitled under this Act is guilty of an offence.

(5) A person who is guilty of an offence under this section is liable to a penalty of \$200.

46—(1) Where a person is convicted of an offence under any of the foregoing provisions of this Division the court shall, in addition to imposing a penalty for the offence, order the person convicted to pay to any person in respect of whom the offence was committed— Remedy of employees.

(a) any sums due to that person in connection with his employment with the person convicted during the 12 months immediately preceding the institution of proceedings for the offence; and

(b) such further sum by way of compensation for the failure to pay those sums as the court considers reasonable.

(2) For the purposes of subsection (1) (a) there shall be deemed to be due to any person in respect of his employment the

amount by which the remuneration to which he is entitled pursuant to section 43 or section 44 in respect of that employment exceeds the amount actually paid to him by his employer in respect thereof.

(3) Where an employee is pursuant to section 43 or section 44 entitled to any remuneration in respect of his employment he may, notwithstanding any agreement to the contrary, recover that remuneration, to the extent it has not been paid to him, or ordered to be paid to him under this section, as remuneration due to him under his contract of employment.

(4) Where by an award wages rates are fixed in respect of any work, and no piecework rates are so fixed in respect of that work, any sum paid at piecework rates for that work shall be disregarded in determining the sum actually paid as remuneration for that work.

Employment
subject to
more than one
award.

47 Where an employee performs two or more classes of work to which different awards apply he shall, in respect of all matters (other than rates of payment for wages or piecework) in respect of which different provisions are contained in those awards, be deemed to be employed under such of those provisions as confer on him the greatest benefits.

Breach of
awards
generally.

48 Without prejudice to the operation of the foregoing provisions of this Division, no person affected by an award shall fail to comply with any of the provisions thereof.

Penalty: \$200.

Lock-outs and
strikes.

49—(1) No organization of employers, or any members thereof, shall counsel, take part in, support, or assist, directly or indirectly, any lock-out on account of any matter for which an award makes provision.

Penalty: In the case of an organization, \$5 000; or in the case of an individual, \$200.

(2) No organization of employees, or any members thereof, or any employee, shall counsel, take part in, support, or assist, directly or indirectly any strike on account of any matter for which provision is made in an award.

Penalty: In the case of an organization, \$5 000; or in the case of an individual, \$200.

Division IV—Compulsory conferences

Compulsory
conferences.

50—(1) The Minister 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 such person as the Minister directs.

(2) Where the Minister is notified by an employer or an organization of employees that an industrial dispute has arisen or is likely to arise, he shall, if he is of opinion that it is desirable to do so for the purpose of settling or preventing the dispute, exercise the powers conferred on him under subsection (1) in such manner as he considers appropriate in the circumstances.

(3) A summons under subsection (1) may be either in writing signed by the Minister or by telegram sent by him.

(4) Any person summoned to attend a conference under the authority of this section shall attend the conference and continue his attendance thereat as directed by the Minister or other person presiding at the conference.

Penalty: \$5 000.

(5) A person who is summoned to attend a conference under this section shall be paid—

- (a) living expenses (if incurred) at such rate as the Minister approves;
- (b) the amount of salary, wages, or earnings actually lost during the time occupied in travelling to and from, and attending, the conference; and
- (c) the amount of any fares actually and properly incurred by him in travelling to and from the conference or, if he provides his own means of transport, a sum equivalent to the amount of the fares that would have been incurred by that person if he had travelled by the appropriate means of public transport.

(6) For the purposes of this section the expression “any person” in subsection (1) includes not only persons engaged in or connected with an industrial dispute but also any person engaged in or connected with any dispute relating to industrial matters and related in any way to an industrial dispute; and also includes any person, whether connected with an industrial dispute or not, whose presence at a conference convened under the authority of this section would, in the opinion of the Minister, be likely to conduce to the prevention or settlement of an industrial dispute.

51—(1) Where the person presiding at a conference convened in accordance with section 50 is of the opinion, after considering

Enforcement
of decisions
of compulsory
conferences.

the views expressed at the conference, that any things should be required to be done, or that any action should be required to be taken, for the purpose of preventing or settling the industrial dispute in respect of which the conference was convened, he may, by order in writing, direct that those things are to be done or that action is to be taken.

(2) No order under this section has effect so as to require any person to contravene any industrial award or to commit any offence, or to do any act which, if the order had not been made, would render him liable to any legal proceedings.

(3) No person shall contravene or fail to comply with any direction contained in an order made under this section.

Penalty: \$1 000.

(4) A person is not guilty of an offence under subsection (3) in respect of any direction made under this section unless a notice containing a copy of that direction has been served on him.

Division V—Miscellaneous

Aged, slow, or
infirm workers.

52—(1) Where the Secretary for Labour is satisfied that a person is, by reason of age, slowness, or infirmity, unable to obtain employment in an industry at the wages rate determined under an award, he may grant to that person a licence to work at a lesser wages rate, and the licence shall specify the wages rate at which the person to whom it is granted is authorized to work.

(2) A licence under this section may specify the period for which it is to remain in force, and the Secretary for Labour may, at any time, revoke such a licence.

(3) Nothing in the foregoing provisions of this Part prevents a person holding a licence under this section from being employed, so long as the licence remains in force, at a wages rate not lower than that specified in the licence.

(4) A person who is aggrieved by the refusal of the Secretary for Labour to issue a licence under this section, or by the terms of a licence so issued, or by the revocation of such a licence, may appeal to the chairman, and the chairman, on the hearing of the appeal, may (unless he dismisses the appeal) direct the Secretary for Labour to issue a licence in such terms as may be specified in the direction, and a licence issued in pursuance of the direction has effect in place of the licence (if any) to which the appeal relates.

(5) No person shall, in an industry within the jurisdiction of a board, employ a number of persons holding licences under this section exceeding one-fifth of the whole number employed by him in that industry, but nothing in this subsection prevents an employer from employing only one such person.

(6) No person shall, either directly or indirectly, or by any pretence or device, pay or offer to pay a person who holds a licence under this section remuneration at a wages rate lower than that specified in the licence.

(7) Any person who contravenes this section is guilty of an offence and liable to a penalty of \$200.

53—(1) The Secretary for Labour may grant to a student Employment of students. undergoing a course of tertiary education who has not attained the age of 21 years a permit authorizing him to work for a specified employer for any periods, not exceeding in the aggregate the periods specified in subsection (3), for the purpose of gaining practical experience in specified subjects of that course.

(2) For the purposes of subsection (1) a course of tertiary education is—

- (a) any course at a university within the Commonwealth;
- (b) any course at the Tasmanian College of Advanced Education;
- (c) any full-time course at a technical college within the State.

(3) The periods referred to in subsection (1) are—

- (a) in the case of a permit granted to a person undergoing a full-time course of training at a technical college in the State for a diploma as a trade teacher, 30 months; and
- (b) in any other case, 18 months.

(4) Where a permit has been granted under this section to a person, nothing in the foregoing provisions of this Part prevents that person from being employed by the employer specified in the permit in accordance with the terms thereof at such remuneration as may be approved by the Secretary for Labour.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Division I—Records and inspection

54—(1) An employer engaged in an industry in which a board Records of employment. has jurisdiction or to which an award relates shall make a true

record, in such form and giving such particulars as may be prescribed, of—

- (a) the name of every person employed by him;
- (b) the age of each such person who has not attained the age of 21 years;
- (c) the class of work that each such person performs;
- (d) the remuneration paid to each such person;
- (e) the number of hours' work done by each such person;
- (f) the annual leave and sick leave credited to, or granted to, each such person; and
- (g) any other matter of which a record is required to be kept by an award of the board.

(2) Where an employer is required to make a record under this section he shall, notwithstanding that he has ceased to be an employer, cause that record to be kept so that it is readily available for production or inspection in accordance with this Act.

(3) On a notice served on him by an inspector a person required to keep a record under this section shall, in accordance with the notice, forward to an inspector a true copy of the record or such information contained therein as is specified in the notice.

(4) A person who fails to comply with this section is guilty of an offence and liable to a penalty of \$200.

Powers of
inspectors.

55—(1) An inspector may require a person who is, or has been, an employer engaged in an industry in which a board has jurisdiction or to which an award relates—

- (a) to produce any record required to be kept by that person under this Act;
- (b) to produce all pay-sheets or other documents in which an account is kept of the remuneration paid to any employee of that person whose rate of remuneration (whether as wages rates or piecework rates) is or was fixed by an award.

(2) Without prejudice to the making of a requirement in any other manner, a requirement made on any person under subsection (1) may be made by notice in writing served on him.

(3) An inspector, as regards any premises or place at which such an industry is carried on as is referred to in subsection (1), may—

- (a) inspect and examine those premises or that place at any time when he has reasonable cause to believe that any person is employed thereat;
- (b) examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, any person whom he finds at or about those premises or that place, and whom he believes to be or to have been within the preceding two months employed thereat, and require that person to answer the questions put, and sign a declaration as to the truth of his answers; and
- (c) exercise such other powers and authorities as may be prescribed.

(4) For the purposes of the exercise of his powers under this section an inspector may enter any such premises or place as is referred to in subsection (3).

(5) In the exercise of his powers under this section an inspector may take with him a police officer when he has reasonable cause to apprehend any serious obstruction to his exercise of those powers.

(6) An inspector exercising his powers under this section may take with him an interpreter; and any question put, or requirement made, on behalf of the inspector by the interpreter, and the answer thereto made to the interpreter, shall be deemed to have been made to the inspector.

(7) An employer shall, at all reasonable times, furnish the means required by an inspector necessary for the exercise of his powers.

(8) No person shall—

- (a) obstruct or wilfully delay an inspector or interpreter in the execution of his functions under this section;
- (b) fail to comply with any requirements made by an inspector under this section;
- (c) fail to answer truly, or to reply to, any question that an inspector is authorized to ask under this section;
- (d) directly or indirectly, prevent any person from appearing before or being questioned by an inspector.

Penalty: \$200.

56—(1) An inspector or other officer under this Act shall, before acting in the execution of his office, make and subscribe before a justice such declaration of secrecy as may be prescribed.

Requirements
as to secrecy of
inspectors, &c.

Penalty: \$1 000.

(2) A person who has made a declaration of secrecy pursuant to subsection (1) of this section shall not, whether or not he has ceased to hold the office by virtue of which he was required to make the declaration, disclose any information contrary to his declaration.

Penalty: \$1 000.

Right of entry
of union
officials.

57—(1) An officer of an organization of employees engaged in an industry in which a board has jurisdiction or to which an award relates may, subject to any conditions prescribed in an award, enter, during any period so prescribed, any factory, shop, office, or other premises in or on which any employer engaged in an industry to which the award relates carries on business, for the purpose of interviewing any employees in connection with any of the business or affairs of that organization.

(2) An officer of any organization of employees to whom subsection (1) applies who—

(a) is employed as such for substantially the whole of the hours normally worked by employees in the industry to which the award applies; and

(b) has entered a factory, shop, office, or other premises under subsection (1) of this section,

is entitled to inspect the record required to be kept under section 54 in respect of the persons employed thereat.

(3) An officer is not entitled under subsection (2) to inspect any record unless he has made and subscribed before a justice such declaration of secrecy as may be prescribed.

(4) A person who has made a declaration of secrecy in accordance with subsection (3) shall not disclose, contrary to that declaration, any information obtained by him from an inspection of any record referred to in that subsection.

Penalty: \$1 000.

(5) Where an officer is entitled under this section to inspect a record required by this Act to be kept by an employer, that employer shall, on a written notice served on him by the officer, produce the record for inspection.

Penalty: \$200.

58—(1) For the purposes of this Division, service of a notice on, or the making of a requirement of, the agent of an employer or the manager, foreman, or other person apparently in charge of a place at which any part of an employer's business is carried on shall be deemed for the purposes of this Act to be service on, or the making of a requirement of, that employer.

Service of
requisitions on
employers, &c.

(2) Without prejudice to subsection (1), a notice that is required to be served under this Act on any person may be so served—

- (a) by delivering it to him personally;
- (b) by leaving it at his place of abode or of business or employment with some person apparently an inmate thereof or employed thereat and apparently of or over the age of 16 years; or
- (c) by post addressed to him at his usual or last-known place of abode or business.

Division II—Miscellaneous

59 An employer engaged in an industry to which an award relates shall ensure that a copy of that award is readily available for inspection and perusal by such of his employees as are engaged in that industry.

Copies of
awards to be
made available
to employees.

Penalty: \$200.

60—(1) No employer shall dismiss or threaten with dismissal 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—

Prohibition on
victimization.

- (a) is, or becomes, or acts in the capacity of, a member of a board;
- (b) has given information with regard to matters under this Act to an inspector;
- (c) has given information with regard to the conditions under which he is employed to an officer of an organization or association of employees to which he belongs;
- (d) has, after giving reasonable notice to his employer of his intention, absented himself from work to carry out his duties as member of a board;

- (e) is entitled to the benefits of an industrial award; or
- (f) has appeared as a witness or has given any evidence in a proceeding under this Act.

Penalty: \$200.

(2) In any proceedings for an offence under this section in respect of any action taken by an employer in respect of an employee it lies on the defendant to satisfy the court that the action was taken for reasons other than those specified in subsection (1).

Evidentiary provisions.

61 In proceedings for offences against this Act—

(a) the onus shall be on the defendant to prove—

- (i) that the provisions of an award with regard to the number or proportionate number of junior workers who may be employed have been complied with;
- (ii) that a person named in the complaint as being either an employee of the defendant generally or an employee of the defendant in a certain capacity was not so employed;
- (iii) that the premises or place mentioned in the complaint as being within a certain area are not therein; and

(b) the allegations contained in the complaint shall be deemed proved in the absence of proof by the defendant to the contrary.

Proceedings for offences.

62 Proceedings for offences under this Act shall be heard and determined by a magistrate.

Application of fines.

63 A penalty imposed under this Act that, apart from this section, would be required to be paid into the municipal fund of a municipality shall be paid, as to one-half, into that fund and, as to the other half, into the Consolidated Revenue.

Regulations.

64 The Governor may make regulations for the purposes of this Act.

Division III—Consequential and transitional provisions

Repeals.

65—(1) The Acts specified in Schedule II are repealed.

(2) In any Act, other than this Act—

- (a) references to the Chairman of Wages Boards shall be construed as references to the Chairman of Industrial Boards;

- (b) references to a wages board shall be construed as references to an industrial board; and
- (c) references to a determination of a wages board shall be construed as references to an award under this Act.

66—(1) The persons who immediately before the commencement of this Act hold office as the Chairman of Wages Boards and the Deputy Chairman of Wages Boards shall be deemed to have been appointed Chairman of Industrial Boards and Deputy Chairman of Industrial Boards, respectively, under this Act.

Continuation
of existing
boards, &c.

(2) Subject to this section, a wages board existing immediately before the commencement of this Act continues as an industrial board under this Act having jurisdiction within the trades in respect of which the board was established.

(3) Where a wages board is continued pursuant to subsection (1) the term of office of the members thereof expires at the end of the period at which it would have expired if this Act had not been enacted.

(4) A wages board continued pursuant to this section is continued with the name of the short title assigned to it immediately before the commencement of this Act with the substitution therein of the word "Industrial" for the word "Wages".

(5) A determination of a wages board subsisting immediately before the commencement of this Act continues to have effect as an award under this Act.

(6) The regulations made under the *Wages Boards Act 1920* that were in force immediately before the commencement of this Act continue to have effect as if they had been made under this Act and as if, in those regulations—

- (a) references to that Act or of the provisions thereof were references respectively to this Act or the corresponding provisions of this Act;
- (b) references to a wages board were references to that board as continued as an industrial board under this Act;
- (c) references to a determination of a wages board were references to any such determination that is continued as an award under this Act and any award made by that board as continued as an industrial board under this Act;

- (d) references to representatives of employers or representatives of employees were references respectively to employer representatives or employee representatives; and
- (e) references to a trade were references to an industry.

SCHEDULE I

(Section 6)

I, _____, do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth II, Her heirs and successors according to law, that I will well and truly serve Her in the office of [Chairman of Industrial Boards] [Deputy Chairman of Industrial Boards], and that I will faithfully and impartially perform the duties of that office.

So help me God.

[or]

I, _____, do solemnly and sincerely promise and declare that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth II, Her heirs and successors according to law, that I will well and truly serve Her in the office of [Chairman of Industrial Boards] [Deputy Chairman of Industrial Boards], and that I will faithfully and impartially perform the duties of that office.

SCHEDULE II

(Section 65)

11 Geo. V No. 51
 No. 67 of 1960
 No. 33 of 1961
 No. 75 of 1963
 No. 36 of 1964
 No. 16 of 1966
 No. 29 of 1967
 No. 36 of 1970
 No. 46 of 1973

| *Wages Boards Act* 1920
 | *Wages Boards Act* 1960
 | *Wages Boards Act* 1961
 | *Wages Boards Act* 1963
 | *Wages Boards Act* 1964
 | *Wages Boards Act* 1966
 | *Wages Boards Act* 1967
 | *Wages Boards Act* 1970
 | *Wages Boards Act* 1973