

THE THIRD SCHEDULE.

(Section 4.)

EXCESS EXPENDITURE INCURRED DURING THE FINANCIAL YEAR ENDED ON THE THIRTIETH DAY OF JUNE 1970 PURSUANT TO SECTION 7A OF THE *PUBLIC ACCOUNT ACT* 1957.

PREMIER:

<i>Premier's and Chief Secretary's Department—</i>	\$
Purchase of Residence for Superintendent of the Royal Society for the Blind and Deaf	19,032.00

TREASURER:

<i>Treasury—</i>	
Loans to affiliated university residential colleges	554.00

CHIEF SECRETARY:

<i>State Library of Tasmania—</i>	
Regional Library Building, Launceston	5,115.97

MINISTER FOR AGRICULTURE:

<i>Agricultural Bank—</i>	
For the purposes of the <i>State Advances Act</i> 1935	20,000.00
For the purposes of the <i>Primary Producers' Relief Act</i> 1970	30,000.00

MINISTER FOR HEALTH:

<i>Department of Health Services—</i>	
Department of Health Services purposes generally	100,498.15
	<u>\$175,200.12</u>

WAGES BOARDS.

No. 36 of 1970.

AN ACT to amend the *Wages Boards Act* 1920.
[17 November 1970.]

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:—

Short title
and citation.

1—(1) This Act may be cited as the *Wages Boards Act* 1970.

(2) The *Wages Boards Act* 1920, as subsequently amended, is in this Act referred to as the Principal Act.

2 After section six of the Principal Act the following section is inserted in Part I:—

“ 6A This Act binds the Crown.”.

Crown bound
by this Act.

3 Section thirteen of the Principal Act is amended—

Appointment
of Board.

(a) by omitting subsections (2), (3), (3A), (3B), and (3c) and substituting therefor the following subsections:—

“(2) A person may be appointed as a representative of employers on a board if—

(a) he is an employer or a managing expert engaged in the relevant trade, being an employer or managing expert who has had at least twelve months' actual experience in the trade acquired within the five years immediately preceding the date of his appointment;

(b) he is a person who—

(i) has had at least twelve months' actual experience in the management of the affairs of a body corporate engaged in the relevant trade, being experience acquired within the five years immediately preceding the date of his appointment; and

(ii) is authorized under the common seal of that body to accept appointment as a member of the board; or

(c) he is an officer of an organization of employers, being an organization the membership of which consists of or includes employers engaged in the trade.

“(3) A person may be appointed as a representative of employees on a board if—

(a) he is an employee in the relevant trade, being an employee who has had at least twelve months' actual experience in the trade acquired within the five years immediately preceding the date of his appointment;

(b) he is an officer of an organization of employees, being an organization the membership of which consists of or includes persons employed in the trade; or

(c) he is an officer of the body known as the Tasmanian Trades and Labour Council.

“(3A) For the purposes of this section, service as an officer of such an organization as is mentioned in paragraph (c) of subsection (2), or paragraph (b) of subsection (3), of this section shall be regarded as actual experience in the relevant trade.

“(3B) Of the members of the board—

- (a) not more than one-half of the representatives of employers shall be persons (not being employers engaged in the relevant trade) who are officers of an organization, or of organizations, of employers; and
- (b) not more than one-half of the representatives of employees shall be persons (not being employees engaged in the relevant trade) who are officers of an organization, or of organizations, of employees,

but where the total number of any such representatives to be appointed is an odd number that total number shall, for the purposes of this subsection, be treated as if it were the next highest even number.

“(3C) Nothing in subsection (3B) of this section affects the operation of section twenty A.”; and

(b) by adding at the end of the section the following subsection:—

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

4 Section sixteen of the Principal Act is repealed and the following section is substituted therefor:—

“16—(1) A nomination of a person for appointment as a representative member of a board may be made—

- (a) in the case of a representative of employers, by—
 - (i) an employer who is engaged in the trade in respect of which the board is appointed; or
 - (ii) an organization of employers the membership of which consists of or includes persons who are engaged in the trade; or
- (b) in the case of a representative of employees, by—
 - (i) an employee who is engaged in the trade in respect of which the board is appointed;
 - (ii) an organization of employees the membership of which consists of or includes employees who are engaged in the trade; or
 - (iii) the body known as the Tasmanian Trades and Labour Council.

“(2) A nomination shall be made as prescribed within fourteen days after the publication of the notice referred to in section fourteen in relation to the board.

“(3) If the number of persons nominated for appointment as members of a board does not exceed the number to be appointed the Minister shall appoint the persons nominated.

Nomination and appointment of members of board.

“(4) If the number of persons nominated for appointment as members of a board, whether as representatives of employers or of employees, is less than the number of those representatives required to be appointed, the Minister may select and appoint such additional persons as may be necessary as representatives of employers or of employees, as the case requires.

“(5) If the number of persons nominated for appointment as members of a board, whether as representatives of employers or of employees, exceeds the number of those representatives required to be appointed the Minister shall select the representatives to be appointed from those nominated and appoint them as members of the board.

“(6) The Minister shall publish in the *Gazette* a notice setting out the names, addresses, and occupations of the persons appointed as members of a board and the fact of their appointment.”.

5 Section nineteen of the Principal Act is amended by omitting subsection (7) and substituting therefor the following subsection:— Power of Minister to appoint in certain cases.

“(7) A member of a board who was at the time of his appointment an officer of an organization of employers or of employees shall vacate his seat if—

- (a) he ceases to be an officer of that organization; and
- (b) he is not qualified under section thirteen for appointment as an employer or employee actually engaged in the trade in respect of which the board is appointed.”.

6 Section twenty of the Principal Act is amended— Power to extend scope of board.

- (a) by omitting subsection (1) and substituting therefor the following subsection:—

“(1) Where, in the opinion of the Governor, a trade is of the same character as, or a similar character to, the trade in respect of which a board is appointed, he may, by proclamation, extend the powers of the board so that the board may exercise, in relation to the first-mentioned trade, all the powers conferred on it by this Act in relation to the trade in respect of which it was originally appointed.”; and

- (b) by omitting subsection (4).

7 Section twenty B of the Principal Act is repealed and the following section is substituted therefor:—

“20B The Governor may, in accordance with the provisions of the *Public Service Act* 1923, appoint an officer of the Department of Labour and Industry to act as the secretary of any particular board or of any number of boards.” Appointment of secretary of board.

Meetings and
proceedings
of boards.

8 Section twenty-two of the principal Act is amended—

(a) by omitting subsection (4) and substituting therefor the following subsections:—

“(4) The quorum of a board consists of the chairman together with one-half of the representatives of employers and one-half of the representatives of employees.

“(4A) Where the total number of representatives of employers or of employees is an odd number, that total number shall, for the purposes of subsection (4) of this section, be treated as if it were the next highest even number.

“(4B) If a quorum is present at a meeting of a board, all the powers of the board may be exercised by a majority of the members (including the chairman) who are present at the meeting.

“(4C) Subject to subsection (4D) of this section, if at the time fixed for commencing a meeting of a board a quorum is not present, the chairman shall adjourn the meeting for such time (being not less than thirty minutes) as he thinks desirable, and if at the expiration of that time a quorum is not present the powers of the board may be exercised by a majority of the members (including the chairman) who are then present.

“(4D) The chairman shall not adjourn a meeting pursuant to subsection (4C) of this section 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 such an inquiry, that the absence of the member is due to circumstances beyond the control of the member.”;

(b) by inserting after subsection (5) the following subsection:—

“(5A) If at a meeting of a board a majority of the representative members present at the meeting request the chairman to do so, he may determine any matter that is being considered, or is awaiting consideration, by the board, being a matter that the board is authorized by section twenty-three to determine.”; and

(c) by adding at the end of the section the following subsection:—

“(7) A determination made by the chairman under subsection (5) or subsection (5A) of this section has the same effect, for all purposes, as if it were a determination made by the board.”.

9 Section twenty-two B of the Principal Act is amended by inserting after subsection (1) the following subsection:— Record of proceedings.

“(1A) The record referred to in subsection (1) of this section shall set forth only—

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

10 Section twenty-three of the Principal Act is repealed and the following section is substituted therefor:—

“23—(1) Subject to this section, a board may determine any industrial matter in relation to the trade in respect of which it is appointed and, in particular and without affecting the generality of this subsection, may determine all matters relating to— Powers and functions of boards.

- (a) work, and hours and days of work, or both;
- (b) minimum rates for wages, or for piecework, or both;
- (c) such variations of or additions to the hours and days of work, or the rates for wages or for piecework, and such extra or special payments, as the board considers to be just and reasonable;
- (d) the granting of leave of any kind other than long service leave;
- (e) privileges, rights, and duties of employers and employees;
- (f) the mode, terms, and conditions of employment;
- (g) the relations of employers and employees;
- (h) the employment or non-employment of persons of a particular sex or age;
- (i) the determination or definition of functions of any employees or class of employees; and
- (j) the date on or from which the determination shall take, or be deemed to have taken, effect (being a date not earlier than the date on which the Minister convened the meeting or the first of the meetings, if more than one, for considering the determination or any earlier date on which a party to the determination applied to the Minister to convene such a meeting).

“(2) Nothing in this Act authorizes a board to determine any matter relating to—

- (a) the opening or closing hours of an employer’s business premises;
- (b) a bonus payment made by discretion of an employer;
- (c) a superannuation scheme; or
- (d) the engagement, dismissal, or reinstatement of any particular employee or particular class of employees.

“(3) In determining rates for wages or piecework, a board shall disregard any superannuation scheme established for the benefit of employees or any class of employees or the dependants of any employees or class of employees.

“(4) A determination of a board is subject to the provisions of any enactment 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*.

“(5) A determination of a board may 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 determination relates, by the Chief Inspector or by the chairman and may, in respect of any matter to which the determination relates, require anything to be done to his satisfaction, or prohibit anything being done without his consent.

“(6) In this section, ‘superannuation scheme’ includes a scheme or fund for the provision of annuities, pensions, or lump sum payments on retirement.”.

11 Section twenty-five B of the Principal Act is repealed and the following Division is substituted therefor:—

“*Division VIIA—Common rule determinations.*

“25B—(1) On an application being made to the Minister by—

- (a) an organization of employers; or
- (b) the body known as the Tasmanian Trades and Labour Council,

for the making of a determination under this section in relation to a matter referred to in the application, the Minister may refer the application to the chairman for determination.

“(2) On such a reference, the chairman may, subject to subsection (4) of this section, determine that any matters specified in his determination shall relate to, and operate for the purposes of, the determinations of any ten or more boards so specified.

“(3) Before making a determination on an application under subsection (1) of this section, the chairman shall confer with such persons engaged in the relevant trades as he thinks fit and shall, in considering the application, have regard to the opinions of those persons in relation to the subject-matter of the application.

“(4) The chairman shall not make a determination under this section in relation to any matters other than—

- (a) a basic wage;
- (b) a minimum wage;

Power of chairman to determine certain matters affecting a number of boards.

- (c) standard hours of work;
- (d) paid leave of absence; or
- (e) a matter that is determined in an award made under the Commonwealth Act that affects or relates to ten or more trades in respect of which boards have been appointed.

“(5) A determination made by the chairman under this section has the same effect, for all purposes, as if it were a determination of each of the boards specified in the chairman’s determination.

“(6) In this section ‘Commonwealth Act’ means the *Conciliation and Arbitration Act 1904-1969* of the Commonwealth, and includes that Act as amended from time to time and any Commonwealth Act passed in substitution for that Act.”.

12 Section thirty-seven of the Principal Act is amended by adding at the end of the section the following subsection:—

Orders, &c.,
to be in
writing.

“(2) For the purposes of this section, service of an order or requisition on the agent of an employer or on the manager, foreman, or other person apparently in charge of a place at which any part of the employer’s business is carried on shall be deemed to be service on the employer.”.

13 Section thirty-nine of the Principal Act is amended—

Employer to
pay rates fixed
by board.

(a) by adding at the end of subsection (3) the words “, and for which no other board has fixed different rates”; and

(b) by adding at the end of the section the following subsection:—

“(4) Where an employee performs two or more classes of work to which the determinations of different boards 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 determinations, be deemed to be employed under such of those provisions as confer on him the greatest benefits.”.

14 Section forty-two of the Principal Act is repealed and the following section is substituted therefor:—

“42 Except as otherwise prescribed in a determination of the relevant board, where by reason of any act, default, or order of an employer an employee (not being an employee who is employed on a casual basis or part-time basis) works in any one week for less than the maximum number of hours fixed by the board for a week’s work, the employee shall be paid, in respect of the work performed by him during that week, wages at the rate prescribed in the determination 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.”.

Full week’s
wages to be
paid for
less than full
week’s work
in certain
circumstances.

Penalty, &c.,
for breach of
determination.

15 Section forty-seven of the Principal Act is amended—

- (a) by omitting from subsection (2) the word “may” (first occurring) and substituting therefor the word “shall” and by omitting from that subsection the word “nine” and substituting therefor the word “twelve”;
- (b) by omitting subsection (3); and
- (c) by omitting from paragraph (a) of subsection (5) the word “nine” and substituting therefor the word “twelve”.

Compulsory
conferences.

16 Section seventy-seven of the Principal Act is amended by omitting subsection (5) and substituting therefor the following subsection:—

“(5) In this section, ‘industrial dispute’ means a dispute in relation to—

- (a) a matter in respect of which a board is authorized by this Act to make a determination; or
- (b) the engagement, dismissal, or reinstatement of any particular employee or particular class of employees, and includes a threatened, or an impending, or a probable dispute.”.

Repeal.

17 Sections forty-eight, forty-nine, fifty-one, and seventy of, and the second schedule to, the Principal Act are repealed.

PUBLIC HEALTH.

No. 37 of 1970.

AN ACT to amend the *Public Health Act 1962* and the *Fisheries Act 1959*.

[24 November 1970.]

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:—

Short title
and citation.

1—(1) This Act may be cited as the *Public Health Act 1970*.

(2) The *Public Health Act 1962*, as subsequently amended, is in this Act referred to as the Principal Act.