

ARBITRATION (PUBLIC SERVICE).

No. 11 of 1911.

An Act relating to the Commonwealth Court of Conciliation and Arbitration and the Public Service of the Commonwealth.

[Assented to 18th December, 1911.]

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

Short title. 1. This Act may be cited as the *Arbitration (Public Service) Act 1911*.

Definitions. 2. In this Act—

“Organization” means an organization within the meaning of the *Commonwealth Conciliation and Arbitration Act 1904–1911* :

“The Court” means the Commonwealth Court of Conciliation and Arbitration :

“The Public Service of the Commonwealth” includes the Public Service of the Northern Territory and of the Territory of the seat of Government, and the service of any public institution or authority of the Commonwealth, and includes all persons employed in any such service in any capacity, whether permanently or temporarily, and whether under the *Commonwealth Public Service Act 1902–1909* or not, but does not include persons employed in the Naval or Military Forces only.

Employees in Public Service deemed employees in industry. 3. Employees in the Public Service of the Commonwealth, or any division, class, grade, or branch thereof, or in any calling, service, handicraft, occupation, or avocation in the Public Service of the Commonwealth, or any division, class, grade, or branch thereof, shall be deemed to be employees in an industry within the meaning of the *Commonwealth Conciliation and Arbitration Act 1904–1911*.

Organization of less than 100 employees. 4. An association of less than one hundred employees in an industry in the Public Service of the Commonwealth may be registered under the *Commonwealth Conciliation and Arbitration Act 1904–1911* as an organization if its membership comprises at least three-fifths of all the persons who are employees in that industry in the Public Service of the Commonwealth.

5. An organization of employees in the Public Service of the Commonwealth shall be entitled to submit to the Court by plaint any claim relating to the salaries, wages, rates of pay, or terms or conditions of service or employment of members of the organization, and the Court shall thereupon have cognizance of the claim as if it were an industrial dispute within the meaning of the *Commonwealth Conciliation and Arbitration Act* 1904–1911.

Jurisdiction of Court as to claims by organization of Commonwealth employees.

(2.) The Public Service Commissioner and the Minister of any Department of State affected by the claim shall be entitled to be represented before the Court, either jointly or separately, in the hearing and determination of the claim.

6. The Court shall, as regards any claim of which it has cognizance under this Act, have power—

Power of Court.

- (a) to hear and determine the claim ;
- (b) to make any order or award or give any direction in pursuance of the hearing or determination ;
- (c) to fix maximum penalties, not exceeding Ten pounds, for any breach or non-observance, by any member of an organization bound by an award or order, of any term of the award or order ;
- (d) impose penalties, not exceeding the maximum penalties fixed (or, if maximum penalties have not been fixed, not exceeding the maximum penalties which might have been fixed), for any such breach or non-observance ;
- (e) to declare, by any award or order, that any term of an award shall, subject to such conditions, exceptions, and limitations as are declared in the award or order be a common rule of the Public Service or of any branch or part of the Public Service ;
- (f) to vary its orders and awards and to re-open any question ;
- (g) to summon any witness before it, and to compel the production before it of books, documents, and things for the purpose of reference to such matters only as relate to the matter of the claim ;
- (h) to take evidence on oath or affirmation ;
- (i) to allow the amendment of the claim or of any subsequent proceedings ; and
- (j) generally to give all such directions and do all such things as it deems necessary or expedient in the premises.

7.—(1.) The Court may refer any claim, of which it has cognizance under this Act, or any matter arising out of the claim, to a Judge of a State Court, or a Police Stipendiary or Special Magistrate of the Commonwealth or of a State, or other person authorized by the Governor-General in that behalf, for investigation and report, or for hearing and determination, and may delegate to that Judge, Magistrate, or person such of its powers as it deems desirable.

Reference of claim or matter for report or determination.

(2.) Where the Court has referred a claim or matter under this section, for investigation and report, the Court may on the report, with or without hearing further evidence or argument or both, decide the claim and make its award.

(3.) Where the Court has referred a claim or matter under this section for hearing and determination, the award of the Judge, Magistrate, or person to whom the claim or matter was referred shall have effect as the award of the Court :

Provided that an appeal from the award shall lie to the Court, at the instance of a claimant organization, or of the Public Service Commissioner, or of the Minister of a Department affected by the award.

Officers to
comply with
awards.

8. The Public Service Commissioner, and the Permanent Heads and Chief Officers of the several Departments of State, and all persons in the Public Service of the Commonwealth, shall comply with the provisions of any award or order of the Court made in pursuance of this Act.

Exercise of
powers.

9. The Court may exercise any of its powers under this Act on its own motion, or on the application of a claimant organization, or of a Minister of State or the Public Service Commissioner.

Award not
limited to
claim.

10. In making an award or order under this Act, the Court shall not be restricted to the specific claims made or to the subject-matter of the claim, but may include in the award or order any matter or thing which the Court thinks necessary in the interests of the public or of the Public Service.

No costs to be
allowed.

11. No costs shall be allowed in respect of any proceedings under this Act.

No counsel or
solicitor to be
employed.

12. No organization or person shall in any proceeding under this Act be represented by counsel or solicitor.

Awards, &c., not
to be appealed
against.

13. No award, order, or direction of the Court made under this Act shall be challenged, appealed against, reviewed, quashed, or called in question, or be subject to prohibition or mandamus, in any other Court on any account whatever.

Award to be
laid before
Parliament and
its operation to
be postponed.

14.—(1.) Every award made under this Act shall be expressed not to come into operation until a future date, not earlier than after the expiration of thirty days after the award has been laid before both Houses of the Parliament.

(2.) When an award has been made under this Act, the President of the Court shall forthwith send to the Prime Minister and to the Attorney-General a certified copy of the award.

(3.) The Prime Minister shall, within fourteen days after its receipt, if the Parliament is then sitting, or if not then within fourteen days after the next meeting of the Parliament, cause the award to be laid before both Houses of the Parliament.

Awards
inconsistent
with
Commonwealth
law or
regulations.

15.—(1.) Except as provided in this section, this Act shall not empower the Court to make any award or order, or give any direction which is not in accord with the laws of the Commonwealth and the regulations made thereunder.

(2.) The Court may, where it thinks it proper to do so, make an award which, in the opinion of the President of the Court, is not,

or may not be, in accord with a law or regulation of the Commonwealth relating to the salaries, wages, rates of pay, or terms or conditions of service or employment of employees ; but in that case the President shall send to the Prime Minister, and to the Attorney-General, with the certified copy of the award, a statement of the laws or regulations of the Commonwealth with which, in his opinion, it is not, or may not be, in accord.

(3.) The Prime Minister shall, within fourteen days after its receipt, if the Parliament is then sitting, or if not then within fourteen days after the next meeting of the Parliament, cause the award, and the statement (if any) of the President, to be laid before both Houses of the Parliament.

(4.) If, before the award is laid before the Parliament, the Attorney-General advises the Prime Minister that in his opinion the award is not in accord with any law or regulation of the Commonwealth referred to in the opinion, the Prime Minister shall cause the opinion to be laid, together with the award, before both Houses of the Parliament.

(5.) If, in the case of an award accompanied by such a statement of the President, or opinion of the Attorney-General, as is above referred to, either House of the Parliament, within thirty days after the award with the statement or opinion has been laid before both Houses, passes a resolution disapproving the award, the award shall not come into operation.

(6.) Except as provided in the last preceding sub-section, but subject to the Constitution, the award shall, from the expiration of those thirty days or such later period as is specified in the award, have full force and effect notwithstanding the provisions of any law or regulation of the Commonwealth.

16.—(1.) The office of Industrial Registrar under the *Commonwealth Conciliation and Arbitration Act* 1904-1911 shall be an office in the Administrative Division of the Public Service and the salary of the office shall have a minimum of six hundred pounds per annum and a maximum of eight hundred and fifty pounds, per annum.

Classification of
office of
Industrial
Registrar.

(2.) The Industrial Registrar holding office at the commencement of this Act shall be deemed to have been appointed to his office as classified by this section as from the first day of July One thousand nine hundred and eleven at the minimum salary.

(3.) The Industrial Registrar shall receive an annual increment of fifty pounds per annum until the maximum salary of his office is reached, but so that a year shall elapse from the time of his appointment before the first increment becomes payable and a year shall elapse from the time of the last increment becoming payable before another increment becomes payable.

(4.) The Consolidated Revenue Fund is hereby appropriated for the purposes of any payments in pursuance of this section.

17. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act.

Regulations.