

INDUSTRIAL PEACE.

No. 21 of 1920.

An Act relating to Industrial Matters, and the Prevention and Settlement of Industrial Disputes.

[Assented to 13th September, 1920.]

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

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *Industrial Peace Act* 1920.

Application and construction of Act.

2.—(1.) This Act applies to industrial matters in relation to conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State.

(2.) This Act shall be read and construed subject to the Constitution, and so as not to exceed the legislative power of the Commonwealth, to the intent that where any enactment thereof would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Parts.

3. This Act is divided into Parts as follows:—

PART I.—Preliminary.

PART II.—The Commonwealth Council of Industrial Representatives.

PART III.—District Councils of Industrial Representatives.

PART IV.—Special Tribunals.

PART V.—Local Boards.

PART VI.—Supplementary.

Definitions.

4. In this Act, unless the contrary intention appears—

“Industrial dispute” means an industrial dispute extending beyond the limits of any one State, and includes—

(a) any dispute as to industrial matters; and

(b) any dispute in relation to employment in an industry carried on by or under the control of the Commonwealth or a State, or any public authority constituted under the Commonwealth or a State; and

(c) any threatened or impending or probable industrial dispute;

“Industrial matters” includes all matters relating to work, pay, wages, reward, hours, privileges, rights, or duties of employers or employees, or the mode, terms and conditions of employment or non-employment; and in particular, but without limiting the general scope of this definition, includes all matters pertaining to the relations of employers and employees, and the employment, preferential employment, dismissal, or non-employment of any particular persons, or of persons of any particular sex or age, or being or not being members of any organization, association, or body, and any claim arising under an industrial agreement, and includes all questions of what is fair and right in relation to any industrial matter having regard to the interests of the persons immediately concerned and of society as a whole, and also includes questions as to profits, prices, and cost of production, relating to an industrial dispute or to an industry;

“Organization”, in reference to employees, means an association of not less than one hundred employees engaged in any industrial pursuit or pursuits whatever, together with such other persons, whether employees engaged in any industrial pursuit or pursuits or not, as have been appointed officers of the association and admitted as members thereof;

“The Commonwealth Council” means the Commonwealth Council of Industrial Representatives constituted pursuant to this Act;

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

“District Council” means a District Council of Industrial Representatives constituted pursuant to this Act.

PART II.—THE COMMONWEALTH COUNCIL OF INDUSTRIAL REPRESENTATIVES.

5.—(1.) The Governor-General may establish a Commonwealth Council of Industrial Representatives.

Power to
constitute
Commonwealth
Council.

(2.) The Commonwealth Council shall consist of a Chairman and an even number (not less than six nor more than eight) of other members.

(3.) The Chairman shall be chosen by agreement between the representatives of employers and employees or, in default of agreement, shall be appointed by the Governor-General.

(4.) Of the members, other than the Chairman, one-half shall be representative of employers, and one-half shall be representative of recognised organizations of employees.

(5.) The members representative of employers and of recognised organizations of employees respectively shall be recommended for appointment in the prescribed manner by the respective employers and organizations of employees.

(6.) The members of the Commonwealth Council shall hold office during the pleasure of the Governor-General, and shall receive such remuneration by way of salaries or fees, and allowances, as the Governor-General directs.

(7.) At meetings of the Commonwealth Council the Chairman shall not vote unless the voting is equal, but in that case he shall have a casting vote.

(8.) Two-thirds of the members of the Commonwealth Council shall form a quorum.

Meetings of the
Commonwealth
Council.

6. Sittings of the Commonwealth Council shall be convened by the Chairman, whenever he thinks fit, or at the request of the Minister, or of a majority of members.

Powers of
Commonwealth
Council.

7. The powers and functions of the Commonwealth Council shall include the following :—

- (a) To consider any matters, conditions and tendencies in any part of the Commonwealth leading or likely to lead to industrial disputes, or in any way affecting or likely to affect industrial peace ;
- (b) To inquire into any industrial matter brought before it by a member, or referred to it by the Governor-General, and to declare its opinion thereon ;
- (c) To confer with any persons or associations as to any matters affecting the prevention or settlement of industrial disputes ;
- (d) To appoint Committees of the Commonwealth Council for the purpose of any inquiry or conference ;
- (e) To summon any person before the Commonwealth Council or a Committee thereof for the purpose of conference or of giving evidence ;
- (f) To make reports to the Governor-General concerning any industrial matter.

Power to make
rules and
orders.

8. The Commonwealth Council may make rules and orders for the order and conduct of its business and proceedings.

PART III.—DISTRICT COUNCILS OF INDUSTRIAL REPRESENTATIVES.

Power to
constitute
district
councils.

9.—(1.) The Governor-General may establish District Councils of Industrial Representatives for any State or part of the Commonwealth.

(2.) A District Council shall consist of a Chairman and an even number (not less than six nor more than eight) of other members.

(3.) The Chairman shall be chosen by agreement between the representatives of employers and employees or, in default of agreement, shall be appointed by the Governor-General.

(4.) Of the members other than the Chairman, one-half shall be representative of employers and one-half shall be representative of recognised organizations of employees.

(5.) The members representative of employers and of recognised organizations of employees respectively shall be recommended for appointment in the prescribed manner by the respective employers and organizations of employees.

(6.) The members of a District Council shall hold office during the pleasure of the Governor-General, and shall receive such remuneration, by way of salaries or fees, and allowances, as the Governor-General directs.

(7.) At meetings of a District Council the Chairman shall not vote unless the voting is equal, and then he shall have a casting vote.

(8.) Two-thirds of the members of a District Council shall form a quorum.

10. Sitings of a District Council shall be convened by the Chairman, when he thinks fit, or at the request of the Minister, or of a majority of members.

Meetings of district council.

11. The powers and functions of a District Council shall include the following :—

Powers of district councils.

- (a) to inquire into any industrial matter brought before it by a member, or referred to it by the Commonwealth Council or by any employers or employees or association of employers or recognised organization of employees ;
- (b) to confer with any persons or associations as to any matters affecting the prevention or settlement of industrial disputes ;
- (c) to appoint Committees of the District Council for the purpose of any inquiry or conference ;
- (d) to summon any person before the District Council or a Committee thereof for the purpose of conference or of giving evidence ;
- (e) to make reports to the Commonwealth Council concerning any industrial matter.

12. A District Council may make rules and orders for the order and conduct of its business and proceedings.

Power to make rules and orders.

PART IV.—SPECIAL TRIBUNALS.

13. The Governor-General may appoint a Special Tribunal or Tribunals for the prevention of or settlement of any industrial dispute or disputes.

Appointment of Special Tribunal.

14.—(1.) A Special Tribunal shall consist of an equal number of representatives of employers and employees respectively, together with a Chairman.

Constitution of Special Tribunal.

(2.) The Chairman shall be chosen by agreement between the representatives of employers and employees, or, in default of agreement, shall be appointed by the Governor-General.

Cognizance of
disputes.

15.—(1.) A Special Tribunal shall have cognizance—

- (a) of any industrial dispute between an organization of employees on the one hand, and employers or associations of employers on the other hand referred to it by the persons or organizations parties thereto ; and
- (b) of any industrial dispute as to which a conference has been held under section eighteen of this Act and as to which agreement has not been reached as to the whole of the dispute, and which has been referred to the Special Tribunal in accordance with section twenty of this Act,

and have power to inquire into all matters relevant to the dispute from the point of production to the final disposal of the commodity by the employer (in the case of a producing industry) and the decision of the Tribunal on the question of relevancy shall be final :

Provided that no dispute as to which the hearing has commenced in the Court shall be referred to a Special Tribunal.

(2.) No evidence relating to any trade secret, or to the profits or financial position, of any witness or party; shall be disclosed except to the Tribunal or published without the consent of the person entitled to the trade secret or non-disclosure.

Penalty : Five hundred pounds or imprisonment for three months.

(3.) All such evidence shall, if the witness or party so requests, be taken in private.

Powers of
Special
Tribunal.

16. A Special Tribunal shall have power to hear and determine any industrial dispute of which it has cognizance ; and for that purpose shall have (in addition to any other powers conferred on it under this Act) all powers which by the *Commonwealth Conciliation and Arbitration Act* 1904-1918 are expressed to be given to the Court or the President as regards an industrial dispute of which the Court has cognizance ; and any act or omission on the part of any person which would, if the hearing or inquiry were the hearing of an industrial dispute before the Court, be an offence against the *Commonwealth Conciliation and Arbitration Act* 1904-1918, shall be an offence against this Act.

Enforcement
of awards.

17. Any order or award made by a Special Tribunal shall be binding on the parties and may be enforced as an award of the Court.

Power to
convene
compulsory
conference.

18.—(1.) A Special Tribunal or the Chairman thereof, or the Minister, or any person thereto authorized in writing by the Minister, may, for the purpose of preventing or settling industrial disputes, summon any person to attend, at a time and place specified in the summons, at a conference.

(2.) "Any person" (last occurring) in the last preceding sub-section 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 (whether extending beyond the limits of a State or not), 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 the conference the person or Tribunal summoning the conference thinks is likely to conduce to the prevention or settlement of an industrial dispute.

(3.) Any person so summoned shall attend the conference and continue his attendance as directed by the person or Tribunal summoning the conference.

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

19. Where, at the hearing before a Special Tribunal, or at any conference summoned in pursuance of this Act, an agreement as to the whole or part of any industrial dispute is made in writing between parties thereto, the agreement may be filed with the Industrial Registrar, and shall thereupon have effect in all respects and be binding on the parties and enforceable as if it were an award of the Court.

Agreement as to industrial dispute.

20. Where a conference has been held under section eighteen of this Act, but agreement has not been reached as to the whole of the industrial dispute—

Reference to Special Tribunal.

- (a) The Chairman of the Special Tribunal if the conference was summoned by the Special Tribunal or the Chairman thereof, may refer the dispute to the Special Tribunal; or
- (b) The Minister, if the conference was summoned by him or by a person authorized by him, may refer the dispute to a Special Tribunal.

PART V.—LOCAL BOARDS.

21. In relation to any Special Tribunal, the Governor-General may appoint a Local Board or Boards to exercise jurisdiction, within such limits as are prescribed or as are defined by the Special Tribunal, for the settlement of any industrial dispute or disputes, or for the prevention or settlement of disputes which have arisen or which may arise in any industry.

Appointment of Local Board or Boards.

22.—(1.) A Local Board shall consist of a Chairman, and an even number (not less than four nor more than eight) of other members.

Constitution of Local Boards.

(2.) Of the members, other than the chairman, one-half shall be representative of employers, and one-half shall be representative of recognised organizations of employees.

(3.) The Chairman shall be chosen by agreement between the representatives of employers and employees or, in default of agreement, shall be appointed by the Governor-General.

(4.) The members representative of the employers and of recognised organizations of employees respectively shall be recommended and appointed in the prescribed manner by the respective employers and organizations of employees.

(5.) The tenure and remuneration of the members of a Local Board shall be as prescribed.

(6.) At meetings of a Local Board the Chairman shall not vote unless the voting is equal, and then he shall have a casting vote.

(7.) Two-thirds of the members of a Local Board shall form a quorum.

Cognizance of
disputes.

23. A Local Board shall have cognizance—

- (a) of any industrial dispute between an organization of employees on the one hand, and employers or associations of employers on the other hand referred to it by the persons or organizations parties thereto; or
- (b) of any industrial dispute referred to it by the Special Tribunal in relation to which it was appointed.

Powers of
Local Boards.

24. Subject to this section the provisions of sections sixteen and seventeen of this Act shall apply in relation to a Local Board in like manner as they apply in relation to a Special Tribunal.

Agreement
made at
hearing by
Local Board.

25. Where, at the hearing before a Local Board, an agreement as to the whole or part of any industrial dispute is made in writing between parties thereto, the agreement may be filed with the Industrial Registrar, and shall thereupon have effect in all respects and be binding on the parties and enforceable as if it were an award of the Court.

Review of
determination
of Local Board.

26.—(1.) Any determination of a Local Board shall be subject to review in the prescribed manner by the Special Tribunal in relation to which it was appointed.

(2.) On such review the Special Tribunal may rehear the whole or any part of the industrial dispute and may either determine it or remit it to the Local Board for determination in accordance with such directions as the Special Tribunal thinks fit.

PART VI.—SUPPLEMENTARY.

Application to
High Court for
declaration of
existence of
dispute.

27.—(1.) When an alleged industrial dispute is referred to a Special Tribunal or a Local Board any party to the proceeding may apply to the High Court for a decision on the question whether the dispute or any part thereof exists, or is threatened or impending or probable, as an industrial dispute extending beyond the limits of any one State or on any question of law arising in relation to the dispute or to the proceeding or to any award or order of the Court.

(2.) The High Court shall have jurisdiction to hear and determine the question.

(3.) The jurisdiction of the High Court under this section may be exercised by any Justice of the High Court sitting in Chambers.

(4.) The decision of the High Court or the Justice on the question shall be final and conclusive, and shall not be subject to any appeal to the High Court in its appellate jurisdiction and shall not be challenged, appealed against, reviewed, quashed, or called in question, or be subject to prohibition mandamus or injunction, in any Court on any account whatever.

28.—(1.) No award or order of a Special Tribunal or Local Board shall be challenged, appealed against, reviewed, quashed or called in question, or be subject to prohibition mandamus or injunction, in any Court on any account whatever.

Award not to be challenged or questioned.

(2.) The Chairman of a Special Tribunal or Local Board may, if he thinks fit, in any proceeding before the Tribunal or Board, as the case may be, at any stage and upon such terms as he thinks fit, state a case in writing for the opinion of the High Court upon any question arising in the proceeding which in his opinion is a question of law.

(3.) The High Court shall hear and determine the question and remit the case with its opinion to the Chairman, and may make such order as to costs as it thinks fit.

29. During the currency of any award or order made by a Special Tribunal or a Local Board under this Act, the Court shall not have jurisdiction to make any award or order inconsistent with any such award or order.

Court not to make award inconsistent with award of Special Tribunal.

30. Any contravention of this Act for which no other penalty is provided shall be punishable on conviction by imprisonment for a period not exceeding six months, or a fine not exceeding One hundred pounds, or both.

Penalties.

31. 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.