



ANNO DECIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1969

No. 14 of 1969

An Act to amend the Industrial Code, 1967-1968.

[Assented to 6th March, 1969.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the "Industrial Code Amend- Short title.
ment Act, 1969".

(2) The Industrial Code, 1967-1968, as amended by this Act, may be cited as the "Industrial Code, 1967-1969".

(3) The Industrial Code, 1967-1968, is hereinafter referred to as "the principal Act".

2. Section 5 of the principal Act is amended—

(a) by inserting in the definition of "Commission in Appeal Session" after the passage "President," the passage "the Deputy President and" ;

(b) by striking out from the definition of "Commission in Appeal Session" the passage " , and the Industrial Registrar" ;

(c) by inserting after the definition of "crane" or "hoist" the following definition :—

"Deputy President" means the Deputy President of the Industrial Court and, in relation to the commission, means the Deputy President of the commission ; ;

Amendment of
principal Act,
s. 5—
Interpretation.

(d) by striking out the definition of "Full Commission" and inserting in lieu thereof the following definition :—

"Full Commission" means the Full Commission constituted as provided by section 24 of this Act ; ;

and

(e) by striking out the definition of "President" and inserting in lieu thereof the following definition :—

"President" means the President of the Industrial Court and, in relation to the commission, means the President of the commission : .

Amendment of principal Act, s. 9—
President of the court.

3. Section 9 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsections :—

(3) In the case of the illness or the absence of the President—

(a) the Deputy President shall act as the President and for that purpose he shall have and may exercise all the powers, jurisdiction and functions conferred on the President by or under this Act ;

or

(b) where there is no Deputy President able to act, the Governor may appoint a person, who is eligible for appointment as a Judge of the Supreme Court to act as the President and for that purpose, the person so appointed shall have and may exercise all the powers, jurisdiction and functions conferred on the President by or under this Act.

(4) A person acting as the President whether pursuant to paragraph (a) or paragraph (b) of subsection (3) of this subsection may be paid such allowance as the Governor determines.

Enactment of new section 9a of principal Act—

Deputy President of the Court.

4. The following section is enacted and inserted in the principal Act after section 9 :—

9a. The Governor may appoint a person who is eligible for appointment as a Judge of the Supreme Court to be the Deputy President of the Industrial Court.

5. Section 10 of the principal Act is amended—

Amendment of
principal Act,
s. 10—
President and
Deputy
President
to be Judges.

- (a) by inserting after the word "President" first occurring the passage "and the Deputy President";
 - (b) by striking out the passage "the Judge" and inserting in lieu thereof the word "Judges";
 - (c) by striking out the passage "shall not" and inserting in lieu thereof the passage "neither of them shall";
- and
- (d) by striking out the passage "by the President" and inserting in lieu thereof the passage "by the President or by the Deputy President as, from time to time, directed by the President".

6. Section 11 of the principal Act is amended—

Amendment of
principal Act,
s. 11—
Salaries.

- (a) by inserting in subsection (1) after the passage "per annum" the passage "and the Deputy President shall receive a salary of eleven thousand four hundred dollars per annum";
- and
- (b) by striking out from subsection (2) the word "salary" and inserting in lieu thereof the word "salaries".

7. Section 12 of the principal Act is amended—

Amendment of
principal Act,
s. 12—
Tenure of
office of
President and
Deputy
President.

- (a) by striking out from subsection (1) the passage "The President shall" and inserting in lieu thereof the passage "The President and the Deputy President shall each";
 - (b) by striking out from subsection (1) the passage "shall cease" and inserting in lieu thereof the passage "each shall cease";
 - (c) by inserting in subsection (1) after the word "President", secondly and thirdly occurring, the passage "or, as the case may be, the Deputy President" in each case;
- and
- (d) by inserting in subsection (2) after the passage "the President" the passage "or the Deputy President".

8. Section 13 of the principal Act is amended by striking out from subsection (1) the passage "The President may" and inserting in lieu thereof the passage "The President and the Deputy President may each".

Amendment of
principal Act,
s. 13—
Pension.

Amendment of
principal Act,
s. 14—

Election by
contributors
to Super-
annuation
Fund.

9. Section 14 of the principal Act is amended—

(a) by inserting after the passage “as President” the passage “or as Deputy President” ;

and

(b) by adding at the end the following new subsection (the preceding part of the section being redesignated as subsection (1)) :—

(2) A notice given for the purposes of subsection (1) of this section by a person appointed to the office of President when holding office as the Deputy President shall for the purposes of this section be deemed to be a notice given by that person as President.

Amendment of
principal Act,
s. 15—

Contributions.

10. Section 15 of the principal Act is amended—

(a) by inserting in subsection (1) after the passage “A President” the passage “or, as the case may be, a Deputy President” ;

(b) by inserting in subsection (2) after the passage “the President” the passage “or, as the case may be, the Deputy President” ;

(c) by inserting in subsection (3) after the passage “A President” the passage “or, as the case may be, a Deputy President” ;

and

(d) by inserting in subsection (3) after the passage “the President” the passage “or, as the case may be, the Deputy President”.

Amendment of
principal Act,
s. 16—

Benefits.

11. Section 16 of the principal Act is amended—

(a) by inserting after the passage “a President” the passage “or, as the case may be, a Deputy President” ;

(b) by striking out from paragraph (a) the passage “the President” and inserting in lieu thereof the word “he” ;

(c) by striking out from paragraph (b) the passage “the President” and inserting in lieu thereof the word “he” ;

(d) by striking out from paragraph (c) the passage “the President” and inserting in lieu thereof the word “he” ;

(e) by striking out from paragraph (d) the passage "the President" and inserting in lieu thereof the word "he";

and

(f) by striking out from paragraph (e) the passage "the President" and inserting in lieu thereof the word "he".

12. Section 23 of the principal Act is amended by inserting in subsection (4) after the passage "President of the commission" the passage "and the Deputy President shall be the Deputy President of the commission".

Amendment of principal Act, s. 23—
Constitution of commission.

13. Section 24 of the principal Act is repealed and the following section is enacted and inserted in its place :—

Repeal of s. 24 and enactment of new section—

24. (1) Except as otherwise provided in this Act, the commission shall, as occasion requires, be constituted by—

Constitution of Commission and Full Commission.

(a) the President ;

(b) the Deputy President ;

or

(c) a Commissioner,

as directed by the President.

(2) The Full Commission shall, as occasion requires, be constituted by—

(a) the President and the two Commissioners ;

or

(b) the Deputy President and the two Commissioners, as directed by the President and a decision of the majority of those for the time being constituting the Full Commission shall be the decision of the Full Commission.

14. Section 25 of the principal Act is amended—

Amendment of principal Act, s. 25—
Jurisdiction Commission.

(a) by striking out from subparagraph (ii) of paragraph (b) of subsection (1) the passage "to the President";

and

(b) by inserting in subparagraph (ii) of paragraph (b) of subsection (1) after the passage "Such appeal" the passage "shall, as directed by the President, be heard and determined by the President or the Deputy President and".

Amendment of
principal Act,
s. 26—
President,
Deputy
President or
Commissioner
to act whenever
mediation
desirable.

15. Section 26 of the principal Act is amended—

- (a) by inserting in subsection (1) after the word “President” first occurring the passage “, the Deputy President” ;
 - (b) by inserting in subsection (1) after the passage “the mediation of” the passage “the Deputy President or of” ;
- and
- (c) by inserting in subsection (2) after the passage “the President” the passage “or the Deputy President”.

Amendment of
principal Act,
s. 27—
Compulsory
conference.

16. Section 27 of the principal Act is amended—

- (a) by inserting in subsection (1) after the passage “by himself” the passage “, by the Deputy President” ;
- (b) by inserting after subsection (1) the following subsection :—

(1a) The Deputy President may, whenever in his opinion it is desirable for the purpose of dealing with an industrial matter, summon any person to attend, at a time and place specified in the summons, at a conference presided over by himself or by a Commissioner. ;

- (c) by inserting in subsection (2) after the passage “so summoned” the passage “under this section” ;
- (d) by inserting in subsection (2) after the passage “the President” the passage “or, as the case may be, the Deputy President” ;
- (e) by inserting in subsection (3) after the passage “so summoned” the passage “under this section” ;
- (f) by inserting in subsection (3) after the passage “the President” the passage “or, as the case may be, the Deputy President” ;
- (g) by striking out from subsection (4) the passage “President or the Commissioner concerned” and inserting in lieu thereof the passage “person presiding over the conference” ;
- (h) by inserting in subsection (5) after the passage “the President” twice occurring the passage “or, as the case may be, the Deputy President” in each case ;

and

- (i) by striking out from subsection (7) the passage "President or the Commissioner concerned" twice occurring and inserting in lieu thereof the passage "person presiding over the conference" in each case.

17. Section 28 of the principal Act is amended by inserting in paragraph (j) of subsection (1) after the passage "the President" the passage "or the Deputy President".

Amendment of principal Act, s. 28—
Powers of Commission.

18. Section 31 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsection:—

Amendment of principal Act, s. 31—
Form, operation and continuance of award or order.

(3) Notwithstanding anything in paragraph (c) of subsection (1) of this section the commission may vary any award or order whether or not the period of operation specified therein has elapsed and the award or order as varied shall for all purposes have effect as if it were an award or order of the commission.

19. Section 36 of the principal Act is amended—

Amendment of principal Act, s. 36—
Recovery of amounts due under awards and agreements.

- (a) by inserting in subsection (1) after the passage "the President" the passage "or the Deputy President";
- and
- (b) by inserting in subsection (1) after the passage "Industrial Registrar" the passage ", as directed by the President".

20. Section 41 of the principal Act is amended—

Amendment of principal Act, s. 41—
Powers of entry.

- (a) by inserting in subsection (1) after the word "President" twice occurring the passage "or the Deputy President" in each case;
- (b) by inserting in paragraph (a) of subsection (2) after the passage "the President" the passage "or the Deputy President";
- and
- (c) by inserting in paragraph (b) of subsection (2) after the passage "the President" the passage "or the Deputy President".

Amendment of
principal Act,
s. 42—
Duties of
officer.

21. Section 42 of the principal Act is amended by striking out from subsection (2) the passage “, not being an act or decision done or given by him as a member of the Commission in Appeal Session”.

Amendment of
principal Act,
s. 43—
Protection of
commission.

22. Section 43 of the principal Act is amended by striking out the word “Commission”, and inserting in lieu thereof the passage “commission, the Deputy President of the commission,”.

Amendment of
principal Act,
s. 45—
Powers of
President and
Deputy
President in
interlocutory
matters.

23. Section 45 of the principal Act is amended by inserting after the passage “the President” the passage “or the Deputy President”.

Amendment of
principal Act,
s. 46—
Power to issue
orders to take
evidence.

24. Section 46 of the principal Act is amended by inserting in subsection (1) after the passage “The President” the passage “or, in his absence, the Deputy President”.

Amendment of
principal Act,
s. 47—
Special mode
of service may
be directed.

25. Section 47 of the principal Act is amended by inserting after the passage “the President or” twice occurring the passage “, the Deputy President or” in each case.

Amendment of
principal Act,
s. 50—
Adjournments.

26. Section 50 of the principal Act is amended by inserting after the passage “the President” the passage “, the Deputy President”.

Amendment of
principal Act,
s. 52—
Evidence.

27. Section 52 of the principal Act is amended—

- (a) by striking out from paragraph (a) the passage “by direction of the President” and inserting in lieu thereof the passage “with the consent of the President or the Deputy President”;
- (b) by striking out from paragraph (a) the passage “President or Registrar shall” and inserting in lieu thereof the passage “President, the Deputy President or Registrar may”;
- (c) by striking out from paragraph (a) the passage “But the President or Registrar” and inserting in lieu thereof the passage “But the President, the Deputy President or Registrar”;
- (d) by striking out from paragraph (a) the passage “who shall be summoned” and inserting in lieu thereof the passage “who may be summoned”;

(e) by striking out from paragraph (a) the passage "shall be required to attend" and inserting in lieu thereof the passage "may be required to attend";

and

(f) by striking out from the proviso to paragraph (a) the passage "President or Registrar" and inserting in lieu thereof the passage "President, the Deputy President or Registrar".

28. Section 53 of the principal Act is amended—

(a) by inserting in subsection (3) after the passage "the President" twice occurring the passage "or, as the case may be, the Deputy President" in each case;

and

(b) by inserting in subsection (4) after the passage "the President" the passage "or, as the case may be, the Deputy President".

Amendment of principal Act, s. 53—
Decision of tribunal to be final. Special case.

29. Section 73 of the principal Act is amended by inserting in subsection (2) after the passage "The President" the passage "or the Deputy President".

Amendment of principal Act, s. 73—
Quorum and voting at meeting.

30. Section 79 of the principal Act is amended—

(a) by striking out from subsection (5) the passage "to the President" first occurring and inserting in lieu thereof the passage "which appeal shall, as directed by the President, be heard and determined by the President or by the Deputy President";

and

(b) by inserting in subsection (5) after the passage "the President" secondly occurring the passage "or to the Deputy President".

Amendment of principal Act, s. 79—
Equal pay for males and females in certain circumstances.

31. Section 95 of the principal Act is amended—

(a) by striking out from subsection (4) the passage "to the President";

(b) by inserting after the passage "such licence" in subsection (4) the passage "and that appeal shall, as directed by the President, be heard and determined by the President or by the Deputy President";

Amendment of principal Act, s. 95—
Aged, slow, inexperienced or infirm workers.

(c) by inserting after the word "President" in subsection (5) the passage "or, as the case may be, the Deputy President";

and

(d) by inserting in subsection (6) after the passage "the President" the passage "or of the Deputy President".

Amendment of
principal Act,
s. 108—
References of
matters to
Full Com-
mission.

32. Section 103 of the principal Act is amended—

(a) by striking out subsection (2) and inserting in lieu thereof the following subsections :—

(2) If the President is of the opinion that a matter referred to in subsection (1) of this section, or a matter in which he is exercising the jurisdiction of the commission should be dealt with by the Full Commission, he may direct accordingly.

(2a) If the Deputy President is of the opinion that a matter in which he is exercising the jurisdiction of the commission should be dealt with by the Full Commission he may consult with the President who may direct accordingly.;

(b) by inserting in subsection (3) before the word "Commissioner" the word "commission,";

(c) by striking out from subsection (3) the passage "so referred" and inserting in lieu thereof the passage "so dealt with";

and

(d) by striking out subsection (5) and inserting in lieu thereof the following subsections :—

(5) Where an industrial matter, being dealt with under this section, was previously—

(a) before a Commissioner under Part III or Part VI of this Act, the Full Commission may, in addition to the powers elsewhere conferred on it, order the Commissioner to deal with it in accordance with such directions and suggestions as the Full Commission thinks fit;

or

(b) before a committee or a Commissioner under Part V of this Act, the Full Commission may, in addition to the powers elsewhere conferred on it, order the committee or Commissioner to deal with it in accordance with such directions and suggestions as the Full Commission thinks fit.

(6) The Commissioner or, as the case may be, the chairman of a Committee referred to in subsection (5) of this section is empowered to and shall do all things necessary to give effect to any decision of the Full Commission pursuant to this section.

33. Section 108 of the principal Act is amended by inserting in subsection (2) after the passage "The President" the passage "or the Deputy President".

Amendment of principal Act, s. 108—
Effect of industrial agreement.

34. Section 115 of the principal Act is amended by inserting in paragraph (a) of subsection (1) after the passage "the President," the passage "or the Deputy President,".

Amendment of principal Act, s. 115—
Punishment for contempt of court or commission.

35. The following section is enacted and inserted in the principal Act after section 126 :—

Enactment of new s. 126a of principal Act—

126a. (1) The Governor may appoint any person to be an industrial magistrate.

Industrial Magistrate.

(2) A person appointed as an industrial magistrate shall be a special magistrate and the Justices Act, 1921-1965, shall for all purposes apply and have effect in relation to his office of special magistrate as if he had been appointed as a special magistrate under and in accordance with that Act.

36. Section 136 of the principal Act is amended—

Amendment of principal Act, s. 136—

(a) by striking out from paragraph (a) of subsection (3) the passage "to the President" and inserting in lieu thereof the passage "and the appeal shall, as directed by the President, be heard and determined by the President or by the Deputy President";

Method of dealing with application for registration.

(b) by inserting in paragraph (b) of subsection (3) after the passage "The President" the passage "or, as the case may be, the Deputy President";

and

- (c) by inserting in paragraph (c) of subsection (3) after the passage "the President" the passage "or, as the case may be, the Deputy President".

Amendment of principal Act, s. 138—
Registration of association.

37. Section 138 of the principal Act is amended by inserting in paragraph (c) of subsection (3) after the passage "the President" the passage "or, as the case may be, the Deputy President".

Amendment of principal Act, s. 148—
President or Deputy President may order that persons shall cease to be members of registered association.

38. Section 148 of the principal Act is amended by inserting after the passage "The President" the passage "or the Deputy President".

Amendment of principal Act, s. 160—
Rules and procedure.

39. Section 160 of the principal Act is amended—

- (a) by inserting in paragraph (a) of subsection (1) after the passage "the President," the passage "the Deputy President," ;
- (b) by inserting in paragraph (a) of subsection (1) after the passage "the Industrial Court," secondly occurring the passage "the President, the Deputy President," ;
- (c) by inserting in paragraph (b) of subsection (1) after the passage "the President," the passage "the Deputy President," ;

and

- (d) by inserting in paragraph (i) of subsection (1) after the passage "the President," the passage "the Deputy President," .

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. W. HARRISON, Governor.