

COMMONWEALTH CONCILIATION AND ARBITRATION.

No. 22 of 1926.

An Act to amend the *Commonwealth Conciliation and Arbitration Act 1904-1921*.

[Assented to 25th June, 1926.]

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 and citation.

1.—(1.) This Act may be cited as the *Commonwealth Conciliation and Arbitration Act 1926*.

(2.) The *Commonwealth Conciliation and Arbitration Act 1904-1921** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Commonwealth Conciliation and Arbitration Act 1904-1926*.

Commencement.

2. This Act shall commence on a date to be fixed by Proclamation.

Construction of Principal Act.

3. The Principal Act, as amended by this Act, and every provision of that Act as so amended shall be construed as if that Act were, as from the commencement of this Act, confirmed and re-enacted as so amended; to the intent that where any provision of the *Commonwealth Conciliation and Arbitration Act 1904*, or of that Act as amended by any Act or Acts, has before the commencement of this Act been, or would, but for this Act, have been, construed as being in excess of the legislative power of the Parliament, that provision shall, as from the commencement of this Act, be read with and deemed to have been enacted in relation to the amendments made by this Act.

Amendment of the Principal Act.

4. The Principal Act is amended as set out in the Schedule to this Act.

Definitions.

5. Section four of the Principal Act is amended—

(a) by inserting after the definition of "Industry" the following definition :—

" 'Judge' means a Judge of the Court and includes the Chief Judge ; "

* Act No. 13, 1904, as amended by No. 28, 1909; No. 7, 1910; No. 6, 1911; No. 5, 1914; No. 18, 1914; No. 35, 1915; No. 39, 1918; No. 31, 1920; and by No. 29, 1921.

(b) by inserting after the definition of "Strike" the following definition :—

“ ‘The Chief Judge’ means the Chief Judge of the Court ;” ; and

(c) by omitting the definition of “ The President ”.

6. Sections twelve, thirteen and fourteen of the Principal Act are repealed and the following sections inserted in their stead :—

“ 12. The Chief Judge and the other Judges—

(a) shall be appointed by the Governor-General in Council ; and

(b) shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity.

Appointment
of Chief Judge
and other
Judges.

“ 13. The qualifications of the Chief Judge and of each other Judge shall be as follows :—

He must be a barrister or solicitor of the High Court or of the Supreme Court of a State of not less than five years’ standing.

Qualifications
of Chief Judge
and each other
Judge.

“ 14.—(1.) The Chief Judge shall receive a salary of Three thousand pounds a year and each other Judge shall receive a salary of Two thousand five hundred pounds a year and the Consolidated Revenue Fund is to the necessary extent hereby appropriated accordingly.

Salaries and
travelling
expenses.

“ (2.) The Chief Judge and each other Judge shall be paid such travelling expenses as are prescribed.

“ 14A. A Judge, other than the Chief Judge, shall have and may exercise such of the powers of the Chief Judge under this Act as are assigned to him by the Governor-General.

Powers of
Judge.

“ 14B.—(1.) Where a Judge has served in that office for not less than fifteen years, he shall, on retiring, be entitled to an annual pension at the rate of one-half of his salary.

Pensions.

“ (2.) If a Judge retires on permanent disability or infirmity, he shall, if he has served in that office for not less than five years, be entitled, on retiring, to an annual pension at the rate of twenty one-hundredths of his salary and at the additional rate of three one-hundredths of his salary for each complete year of his service after the expiration of the said five years to the date of his retirement, but so that the rate of his pension shall not exceed one-half of his salary.

“ (3.) Where a Judge has, prior to his appointment, served in any other judicial office under the Commonwealth, pension shall not be payable to him except in pursuance of this Act, but the term of his prior service shall, for the purposes of this section, be added to, and be deemed to be part of, his service as a Judge.

“ (4.) The pensions of the Judges shall be charged on and paid out of the Consolidated Revenue Fund.

“ (5.) They shall grow due from day to day, but shall be payable monthly.”

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7. After section eighteen A of the Principal Act the following sections are inserted :—

Intervention
by the
Attorney-
General.

“ 18B.—(1.) The Attorney-General on behalf of the Commonwealth may, by giving to the Registrar a notice in writing of his intention so to do, intervene in the public interest in any proceeding before the Court in which the question of standard hours of work in any industry or of the basic wage is in dispute, in relation to either of those questions.

“ (2.) Upon a notice being given in accordance with the last preceding sub-section the Registrar shall cause the notice to be published in the *Gazette*.

“ (3.) Upon publication of the notice in the *Gazette* any person, or organization or association of employers or employees may apply to the Court for liberty to be heard and the Court may, if it is of opinion that the applicant is interested in the determination of the question, permit the applicant to be heard and to examine and cross-examine witnesses.

“ (4.) Upon intervention by the Attorney-General in accordance with this section the Court shall fix a day for hearing the question as to which he has intervened and that question shall be heard and determined by the Chief Judge and two other Judges.

Conciliation
Commissioners.

“ 18C.—(1.) The Governor-General may appoint Conciliation Commissioners of such number and upon such terms and conditions as to remuneration, tenure and otherwise as he thinks fit.

“ (2.) A Conciliation Commissioner shall have such of the powers of the Chief Judge under sections sixteen and sixteen A of this Act as are assigned to him by the Governor-General.

“ (3.) The appointment of a Conciliation Commissioner with power under section sixteen or sixteen A of this Act shall not affect the exercise by a Judge of his power under those sections.”

Disputes of
which the
Court has
cognizance.

8. Section nineteen of the Principal Act is amended—

(a) by omitting the word “ President ” (first occurring) and inserting in its stead the words “ Chief Judge or a Conciliation Commissioner appointed under section eighteen c of this Act ” ; and

(b) by omitting the word “ President ” (second occurring) and inserting in its stead the words “ Chief Judge or the Commissioner ”.

Imposition and
recovery of
penalties.

9. Section forty-four of the Principal Act is amended by inserting in sub-section (1.) after the word “ imposed ” the words “ by the Court or ”.

Power to make
orders to
observe Act
and awards.

10. Section forty-eight of the Principal Act is amended by inserting before the words “ The High Court ” the words “ The Court, ”.

Termination of
appointments
under Principal
Act.

11.—(1.) Subject to this section, the offices of President and Deputy President under the Principal Act shall, upon the commencement of this Act, cease to exist.

(2.) The Governor-General may, from time to time, direct that a person who, at the commencement of this Act, held office as Deputy President shall continue in his office after the commencement of this Act for such period as, in the opinion of the Governor-General, is necessary for the completion of any matter upon the hearing of which the Court, as constituted under the Principal Act by that Deputy President, was engaged prior to that commencement and, thereupon, he shall have and may exercise, in relation to that matter, such power and jurisdiction in accordance with the Principal Act as he had at the commencement of this Act.

THE SCHEDULE.

CONSEQUENTIAL AMENDMENTS IN THE PRINCIPAL ACT.

Heading, Section, or Schedule Amended.	Extent of Amendment.
Section 3	Omit " President " (first occurring) insert " Judges ".
Section 6	Omit " President " (second occurring) insert " Chief Judge ".
Section 9	Omit " President " insert " Chief Judge ".
Section 11	Omit " President " insert " Chief Judge ".
Section 15	Omit " Deputy President " insert " other Judges ".
Heading of Division 2 of Part III.	Omit " The President or Deputy President " insert " Each Judge ".
Section 16	Omit " President " insert " Judges ".
Section 16A	Omit " President " (wherever occurring) insert " Chief Judge ".
Section 17	Omit " President " insert " Chief Judge ".
Section 17A	Omit " President " insert " Chief Judge ".
Section 18A	Omit " the President " (wherever occurring) insert " the Chief Judge ".
	Omit " a Deputy President " (wherever occurring) insert " another Judge ".
	Omit " Deputy Presidents " (wherever occurring) insert " other Judges ".
	Omit " Senior Deputy President " insert " next Senior Judge ".
Section 21A	Omit " President " insert " Chief Judge ".
Section 22	Omit " President " insert " Chief Judge ".
Section 24	Omit " President " insert " Chief Judge ".
Section 25	Omit " President " insert " Chief Judge ".
Section 31	Omit " President " (wherever occurring) insert " Chief Judge ".
Heading of Division 4 of Part III.	Omit " President " insert " Chief Judge ".
Section 32	Omit " President " (wherever occurring) insert " Chief Judge ".
Section 33	Omit " President " insert " Chief Judge ".
Section 38	Omit " President " insert " Chief Judge ".
Section 41	Omit " President " (wherever occurring) insert " Chief Judge ".
Section 42	Omit " President " insert " Chief Judge ".
Section 43	Omit " President " (wherever occurring) insert " Chief Judge ".
Section 56	Omit " President " insert " Chief Judge ".
Section 62	Omit " President " insert " Chief Judge ".
Section 64	Omit " President " insert " Chief Judge ".
Schedule A.	Omit " President or Deputy President " insert " Chief Judge or Judge ".