

# THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 12 of 1936.

## AN ORDINANCE

**To provide for an Industrial Board in the Territory  
for the Seat of Government.**

**B**E it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909*, and the *Seat of Government (Administration) Act 1910-1933*, as follows:—

1. This Ordinance may be cited as the *Industrial Board Ordinance 1936*. Short title.

2. Sections one, two and twenty-nine of this Ordinance shall commence on the day on which this Ordinance is notified in the *Gazette* and the remaining sections of this Ordinance shall commence on such dates as are respectively fixed by the Attorney-General by notice in the *Gazette*: Commencement.

Provided that nothing in this Ordinance shall prevent the election in the prescribed manner of members representative of Commonwealth employees and of private employees prior to the date fixed for the commencement of the remaining sections of this Ordinance.

3. The Ordinances referred to in the Schedule to this Ordinance are repealed: Repeal.

Provided that any award made under the *Industrial Board Ordinance 1922-1933* in force at the commencement of this Ordinance shall continue in force as if it were a determination affecting Commonwealth employees made in pursuance of this Ordinance and may be varied, suspended or cancelled accordingly.

4. In this Ordinance, unless the contrary intention appears— Definitions.

“Commonwealth employee” means any person employed by the Commonwealth within the Territory, but does not include any officer of the Public Service of the Commonwealth or any employee of the Commonwealth

to whom an award of the Commonwealth Court of Conciliation and Arbitration or any determination made in pursuance of the *Arbitration (Public Service) Act 1920-1934* is applicable or any person who is, in pursuance of the *Apprenticeship Ordinance 1936*, bound apprentice;

“determination” includes a variation, suspension, interpretation or cancellation of a determination;

“employees” means Commonwealth employees and private employees;

“industry” includes—

(a) any business, trade, manufacture, undertaking or calling of employers carried on in the Territory;

(b) any calling, service, employment, handicraft, or industrial occupation or avocation of employees in the Territory;

(c) a branch of an industry or group of industries;

“organization” means any organization registered pursuant to the *Commonwealth Conciliation and Arbitration Act 1904-1934*, and includes any trade or other union, or branch of any union or any association or body composed of or representative of private employers or Commonwealth or private employees or for furthering or protecting the interests of such employers or employees to which the Attorney-General, by notice in the *Gazette*, declares this Ordinance to apply;

“private employee” means any person employed within the Territory, other than a Commonwealth employee, but does not include any person to whom an award of the Commonwealth Court of Conciliation and Arbitration is applicable or who is, in pursuance of the *Apprenticeship Ordinance 1936*, bound apprentice;

“private employer” means any employer in the Territory, other than the Commonwealth;

“the Board” means the Industrial Board constituted under this Ordinance;

“the Public Service Board” means the Board of Commissioners appointed in pursuance of the *Commonwealth Public Service Act 1922-1934*;

“this Ordinance” includes any regulations made thereunder.

Establishment  
of Industrial  
Board.

5.—(1.) For the purpose of this Ordinance, there shall be an Industrial Board.

(2.) The Governor-General may appoint a Chairman and four other persons to be members of the Board.

(3.) The persons first appointed as members of the Board shall be appointed for a term of one year, and thereafter each appointment shall be for such a term as is specified in the instrument of

appointment not being more than three years; and, on the expiration of his term of office, every person so appointed shall, subject to this Ordinance, be eligible for re-appointment.

(4.) One of the members of the Board shall be the representative of the Commonwealth and shall be nominated in writing by the Public Service Board.

(5.) One of the members of the Board shall be representative of the private employers and shall be nominated in writing by the Canberra Chamber of Commerce.

(6.) One of the members of the Board shall be representative of the Commonwealth employees and shall be elected in the prescribed manner.

(7.) One of the members of the Board shall be representative of the private employees and shall be elected in the prescribed manner.

(8.) Whenever the office of a member of the Board referred to in sub-section (4.), (5.), (6.) or (7.) of this section becomes vacant, the Governor-General may appoint to be a member of the Board a person determined in the prescribed manner.

6.—(1.) At meetings of the Board the Chairman shall have a deliberative vote. Voting by  
Chairman.

(2.) In the event of the voting being equal on any question before a meeting of the Board, the opinion of the Chairman shall prevail.

7.—(1.) A Deputy Chairman may be appointed by the Governor-General. Deputy  
Chairman  
of Board.

(2.) The Deputy Chairman shall act as Chairman at any meeting of the Board in the case of the absence of the Chairman on account of illness or any other cause, and shall at that meeting have all the powers and may exercise all the functions of the Chairman.

(3.) The Deputy Chairman shall, subject to this Ordinance, hold office for such term as is specified in the instrument of his appointment, not being more than three years.

8. The Governor-General may remove any member from office for misbehaviour or incapacity. Removal of  
member  
from office.

9.—(1.) In addition to retirement of members by expiration of their terms of office or removal from office in accordance with the last preceding section, the office of a member shall become vacant upon— Office of  
member,  
how vacated.

- (a) the death, lunacy or bankruptcy of the member, or the conviction of the member of an indictable offence;
- (b) the resignation of the member; or
- (c) the absence of the member, without leave of the Board, from two consecutive meetings of the Board.

**Meetings  
of Board.**

**10.—**(1.) A Board shall be summoned by the Chairman by notice sent by post to each member of the Board.

(2.) The notice shall specify the time and place of the meeting of the Board and the matters to be dealt with by the Board at the meeting.

**Salary, fees  
and allowances.**

**11.—**(1.) The Chairman of the Board shall receive such salary and allowances as are fixed by the Governor-General in the instrument of his appointment.

(2.) The members of the Board (other than the Chairman) shall receive such fees and allowances, in respect of each day upon which they attend a meeting of the Board, as are fixed by the Governor-General in the instruments of their appointment.

**Jurisdiction  
of Board.**

**12.** The Board shall have jurisdiction to hear and determine all matters relating to salaries, wages, rates of pay or terms or conditions of service or employment of employees in the Territory.

**Common rule.**

**13.** For the purpose of this Ordinance, the Board shall have power with respect to any matter submitted to it under this Ordinance to declare by order that any term of a determination shall, subject to such conditions, exceptions and limitations as are declared in the order, be a common rule of employment in the Territory:

Provided that, before any common rule is so declared, the Board shall, by notification published in the *Gazette* and in a newspaper circulating in the Territory specifying the matter in relation to which it is proposed to make a common rule, make known that all persons and organizations interested and desirous of being heard may, on or before a day named, appear or be represented before the Board; and the Board shall, in such manner as it determines, hear all such persons and organizations so appearing or represented.

**Constitution  
of the Board  
for exercise  
of its powers.**

**14.** The Board when meeting to exercise its powers under this Ordinance shall be constituted from time to time as follows:—

- (a) Where the matter for determination is one affecting Commonwealth employees and private employees—the Chairman and the four other members;
- (b) Where the matter for determination is one affecting Commonwealth employees—the Chairman, the member representing the Commonwealth and the member representing Commonwealth employees; and
- (c) Where the matter for determination is one affecting private employees—the Chairman, the member representing the private employers and the member representing the private employees:

Provided that the Chairman may, at any stage of the proceedings relating to any matter before the Board, order that that matter be referred to the Full Board for determination.

15. The Attorney-General may, by notice in the *Gazette*, declare that this Ordinance shall apply to any organization in or in connexion with any industry on compliance with the prescribed conditions. Application of Ordinance to declared organizations.

16.—(1.) The Minister of any Department of State, the Public Service Board and any organization shall be entitled— Submission of matters to Board.

- (a) to submit to the Board any matter in which he or it is interested relating to the salaries, wages, rates of pay, or terms or conditions of service or employment of employees in the Territory; and
- (b) to be represented before the Board on the hearing of any such matter.

(2.) Any matter submitted to the Industrial Board constituted under the *Industrial Board Ordinance 1922-1933* and pending at the commencement of this Ordinance shall be deemed to have been submitted to the Board constituted under this Ordinance.

17. Any determination made by the Board in pursuance of this Ordinance shall be notified in the *Gazette* and the fact of any determination being so notified shall be advertised in a newspaper circulating in the Territory. Notification of determination of Board.

18.—(1.) Any determination made by the Board in pursuance of this Ordinance shall be binding on the employees to whom it relates and, where the determination relates to private employees, on the employers of those employees. On whom determinations binding.

(2.) The Public Service Board, and the Permanent Heads and Chief Officers of the several Departments and all persons in the Public Service of the Commonwealth shall comply with the provisions of any determination made by the Board in pursuance of this Ordinance.

19.—(1.) Where any organization or person bound by any determination of the Board relating to private employees has committed any breach or non-observance of any term of the determination, a penalty not exceeding Twenty pounds may be imposed by any Court of competent jurisdiction. Penalty for breach of determination by private employers or private employees.

(2.) Any such penalty may be sued for and recovered by—

- (a) any organization which is affected, or whose members or any of them are affected, by the breach or non-observance;
- (b) any member of any organization who is affected by the breach or non-observance;
- (c) any party to the determination; or
- (d) any officer of any organization which is affected, or any of whose members are affected, by the breach or non-observance, who is authorized by the rules of the organization to sue on behalf of the organization.

(3.) Any private employee employed by any private employer may at any time within nine months from any payment by way of wages in accordance with any determination binding on such private employer becoming due to him, but not later, sue for and recover the same in any Court of competent jurisdiction.

Power to  
send for  
witnesses and  
documents.

**20.**—(1.) For the purposes of this Ordinance, the Board may, by writing under the hand of the Chairman, summon any person to attend the Board at a time and place named in the summons, and then and there to give evidence and to produce any books, documents or writings in his custody or control which the Chairman deems relevant to any proceedings before the Board and which he is required by the summons to produce.

(2.) The Board may, in its discretion, on the application of any party to any proceedings before the Board, by writing under the hand of the Chairman, summon any person to appear as a witness before the Board.

Power to  
examine upon  
oath.

**21.** Any member may administer an oath to any person appearing as a witness before the Board, whether the witness has been summoned or appears without being summoned, and may examine the witness upon oath.

Affirmation  
in lieu of  
oath.

**22.**—(1.) Where any witness to be examined before the Board conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath, and that he will state the truth, the whole truth, and nothing but the truth, to all questions that may be asked him.

(2.) An affirmation so made shall be of the same force and effect, and shall entail the same liabilities, as an oath.

Penalty for  
failing to  
attend or  
produce  
documents.

**23.** If any person served with a summons to attend the Board, when the summons is served personally, fails without reasonable excuse to attend the Board, or to produce any documents, books or writings in his custody or control, which he was required by the summons to produce, he shall be guilty of an offence.

Penalty: Fifty pounds.

Penalty for  
refusing to  
be sworn or to  
give evidence.

**24.** If any person appearing as a witness before the Board refuses to be sworn or to make an affirmation or to answer any question relevant to the proceedings before the Board put to him by any member, he shall be guilty of an offence.

Penalty: Fifty pounds.

Giving false  
testimony.

**25.** Any witness before the Board who knowingly gives false testimony touching any matter, material to any proceedings before the Board, shall be guilty of an offence.

Penalty: Imprisonment for one year.

Protection  
of members of  
the Board.

**26.** A member shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in administering this Ordinance.

27. Any printed paper purporting to be a copy of any determination of the Board and to be printed by the Government Printer shall, in all courts having jurisdiction in the Territory, be evidence that such determination has been given by the Board. Evidence of decisions.

28. Nothing in this Ordinance or in any determination of the Board shall affect the operation of any award of a Commonwealth Court or Commonwealth Industrial Tribunal applying to the Territory. Operation of Commonwealth awards.

29. The Attorney-General may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance and, in particular, for prescribing penalties not exceeding Fifty pounds for any breach of the Regulations. Regulations.

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#### THE SCHEDULE.

*Industrial Board Ordinance 1922 (No. 2 of 1922).*

*Industrial Board Ordinance 1922 (No. 2) (No. 3 of 1922).*

*Industrial Board Ordinance 1925 (No. 2 of 1925).*

*Industrial Board Ordinance 1926 (No. 4 of 1926).*

*Industrial Board Ordinance 1926 (No. 2) (No. 19 of 1926).*

*Industrial Board Ordinance 1928 (No. 6 of 1928).*

*Industrial Board Ordinance 1932 (No. 8 of 1932).*

*Industrial Board Ordinance (No. 2) 1932 (No. 12 of 1932).*

*Industrial Board Ordinance 1933 (No. 12 of 1933).*

Dated this ninth day of April, 1936.

GOWRIE

Governor-General.

By His Excellency's Command,

THOS. C. BRENNAN

for Minister of State for the Interior.

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By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.