

No. 33 of 1974

AN ORDINANCE

To amend the *Apprenticeship Ordinance 1936-1966*.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this nineteenth day of September, 1974.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

KIM E. BEAZLEY
Minister of State for Education.

APPRENTICESHIP ORDINANCE 1974

1. (1) This Ordinance may be cited as the *Apprenticeship Ordinance 1974*.* Short title and citation.

(2) The *Apprenticeship Ordinance 1936-1966*† is in this Ordinance referred to as the Principal Ordinance.

(3) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Apprenticeship Ordinance 1936-1974*.

2. Section 5 of the Principal Ordinance is amended—

Definitions.

(a) by omitting from the definition of "Apprentice" the word "master" and substituting the word "employer";

(b) by omitting the definitions of "Industrial Board" and "Master" and substituting the following definitions:—

" 'Employer' means a person or organization to whom a person is, in pursuance of this Ordinance, bound apprentice in an apprenticeship trade by indentures or assignment of indentures;

'Organization' means a body corporate recognized by the Board for the purpose of training apprentices;" and

* Notified in the *Australian Government Gazette* on 25 September 1974.

† Ordinance No. 11, 1936, as amended by No. 27, 1937; No. 19, 1938; No. 17, 1950; No. 8, 1958; No. 21, 1959; and No. 19, 1966.

(c) by omitting the definition of "Trainee apprentice" and substituting the following definition:—

" 'Tradesman' means—

- (a) a person who has completed an apprenticeship in pursuance of this Ordinance or of a law of a State or another Territory relating to apprenticeships;
- (b) a person recognized as a tradesman under an award made under the *Conciliation and Arbitration Act 1904-1973* or a law of a State or another Territory relating to industrial awards;
- (c) the holder of a tradesman's certificate granted under the *Tradesmen's Rights Regulation Act 1946-1966*; or
- (d) the holder of qualifications declared by the Board to be equivalent to the qualifications held by a person referred to in paragraph (a)."

3. Section 6 of the Principal Ordinance is repealed and the following section substituted:—

Application
of
Ordinance.

" 6. This Ordinance applies to and in relation to the apprenticeship of a person, employed in the Territory by Australia, who is, or is included in a class of persons, exempted under section eight A of the *Public Service Act 1922-1973* from the provisions of that Act, and the Minister of State for the Department in which the person is employed, the Public Service Board and the apprentice so employed are bound by the provisions of this Ordinance accordingly."

Apprentice-
ship Board.

4. Section 8 of the Principal Ordinance is amended—

- (a) by inserting in sub-section (1), after the word "members", the words "appointed by the Minister";
- (b) by omitting from paragraph (a) of that sub-section the words "who shall be appointed by the Minister";
- (c) by omitting from paragraph (b) of that sub-section the words "who shall be appointed by the Minister"; and
- (d) by omitting from sub-section (2) the words "nomination and be eligible for re-nomination" and substituting the words "appointment and be eligible for re-appointment".

Deputies of
President
and Mem-
bers of
Board.

5. Section 9 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (2) the words "on account of illness or any other cause";
- (b) by omitting from sub-section (3) the words "appointed or nominated" and substituting the words "appointed, or nominated and appointed, as the case may be,";

- (c) by omitting from sub-section (4) the words "nomination and be eligible for re-nomination" and substituting the words "appointment and be eligible for re-appointment";
- (d) by omitting from sub-section (5), the words "in any case where that member is unable to attend the meeting by reason of illness or other unavoidable cause" and substituting the words ", in the absence of that member"; and
- (e) by omitting sub-section (6) and substituting the following sub-section:—

"(6) A member of the Board shall not be the deputy of another member."

6. Section 10 of the Principal Ordinance is amended by omitting sub-sections (1), (2) and (3) and substituting the following sub-sections:— Meetings of Board.

"(1) Subject to sub-sections (1A) and (2), meetings of the Board shall be held at such times and places as the Board determines.

"(1A) The Minister may, by notice in writing given to the Chairman and each member of the Board, direct that a meeting of the Board be held at the time and place specified in the notice.

"(2) The Chairman may, by notice in writing given to each other member of the Board, convene a meeting of the Board at the time and place specified in the notice.

"(3) At a meeting of the Board, a quorum shall consist of three members, being—

- (a) the Chairman or the Deputy Chairman;
- (b) the member referred to in paragraph (b) or paragraph (c) of sub-section (1) of section eight; and
- (c) one of the members referred to in paragraph (d) of sub-section (1) of that section."

7. Section 11 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (b) of sub-section (1) the words "following upon a report by the Board"; and
 - (b) by omitting from paragraph (a) of sub-section (2) the words "following upon a report by the Board".
- Vacation of office.

8. Section 12 of the Principal Ordinance is amended—

- (a) by omitting from paragraph (e) the word "and"; and
 - (b) by adding at the end thereof the following word and paragraph:—
"and (g) shall undertake the promotion of apprenticeship in the Territory."
- Functions of Board.

9. Section 13 of the Principal Ordinance is amended—

- (a) by omitting paragraph (a) of sub-section (1) and substituting the following paragraph:—
"(a) appoint a trade committee for each apprenticeship trade or for each group of apprenticeship trades;"
- Appointment of trade committees.

- (b) by omitting from sub-section (3) the words “, upon the recommendation of the Apprenticeship Board”;
- (c) by omitting sub-sections (4) and (5) and substituting the following sub-sections:—

“ (4) The Chairman of the Board or, in his absence, the Deputy Chairman of the Board, shall be the chairman of each trade committee.

“ (5) The Secretary to the Board shall be the Secretary to each trade committee.

“ (5A) Members of a trade committee, other than the chairman, hold office for a period of three years from the date of appointment and are eligible for re-appointment.”;

- (d) by omitting from paragraph (b) of sub-section (6) the words “ following upon a report by the committee”;
- (e) by omitting sub-section (7); and
- (f) by omitting sub-sections (9) and (10) and substituting the following sub-section:—

“ (9) The quorum of a trade committee consists of the chairman and one more than half the total number of other members of the committee and shall include—

- (a) at least one member representing employers; and
- (b) at least one member representing employees.”.

10. Section 14 of the Principal Ordinance is repealed and the following section substituted:—

Meetings of
trade
committees.

“ 14. (1) Subject to sub-section (2), all meetings of a trade committee shall be convened by the chairman of the committee by notice in writing given to each other member of the committee.

“ (2) The Minister may, by notice in writing given to each member of a trade committee, direct that a meeting of the committee be held at the time and place specified in the notice.

“ (3) Subject to this Ordinance, a trade committee may regulate its own proceedings and appoint and remove such sub-committees of its members as it thinks fit.

“ (4) The chairman of a trade committee shall preside at each meeting of the committee.

“ (5) Each member of a trade committee, other than the chairman, shall have a vote and in the event of an equality of votes the chairman shall have a casting vote.

“ (6) Each trade committee shall cause minutes of its proceedings to be kept.”.

11. Section 15 of the Principal Ordinance is repealed and the following section substituted:—

Powers and
functions
of trade
committees.

“ 15. (1) The powers and functions conferred on the Board by section seventeen to twenty-five (inclusive) shall, subject to the direction of the Board, be exercised, in relation to a trade with respect to which a trade committee has been appointed under section thirteen, by the trade committee.

“(2) In addition to the powers and functions conferred on a trade committee by sub-section (1), each trade committee shall consider and report to the Board upon such matters as are referred to it by the Board, and shall carry out such other functions as the Board directs.”.

12. Section 17 of the Principal Ordinance is amended by omitting sub-section (2). Investigations by the Board.

13. Section 18 of the Principal Ordinance is repealed and the following section substituted:—

“18. The Board may, by notice published in the *Gazette*, determine, in relation to an apprenticeship trade, the number of apprentices that may be employed by an employer in that trade in relation to the number of tradesmen employed by that employer in that trade.”. Board may determine number of apprentices in each trade.

14. Section 19 of the Principal Ordinance is repealed and the following sections substituted:—

“19. (1) Subject to this section, a person under the age of twenty-one years shall not be employed in, or engage in, an apprenticeship trade. Certain persons not to be employed in apprenticeship trades.

“(2) Sub-section (1) does not apply to or in relation to a person who—

- (a) is an apprentice;
- (b) is an applicant for apprenticeship and is employed on probation; or
- (c) satisfies the Board that he has completed an apprenticeship.

“(3) A person who customarily works with the recognized tools of trade, for consideration or under the direction of an employer in the trade, shall be deemed to be employed or engaged in the trade.

“19A. (1) Where there is no award under the *Conciliation and Arbitration Act 1904-1973* in force in the Territory in respect of an apprenticeship trade, the Board may determine the rates of pay to which an apprentice in that trade is entitled and the conditions under which an apprentice in that trade is to be employed. Board may determine pay and conditions.

“(2) A determination made by the Board under sub-section (1) shall be notified in the *Gazette* and shall take effect from such date, being a date not earlier than the date of notification, as the Board determines.

“(3) Where the Board has made a determination under this section, the terms and conditions of the employment of an apprentice shall be the terms and conditions so determined, together with the terms and conditions set out in the indentures of apprenticeship, to the extent that the last-mentioned terms and conditions are not inconsistent with the determination.”.

15. Section 20 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (2) the words “a copy of the proposed indentures (if a copy is available) and”;
 - (b) by omitting from sub-section (3) the words “shall consider whether the proposed master” and substituting the words “shall determine whether the proposed employer”;
- Application for permission to become apprentice.

(c) by omitting sub-section (5) and substituting the following sub-section:—

“ (5) The Board shall, at least fourteen days before the expiration of the probationary period, notify an applicant as to his fitness or otherwise for the apprenticeship.”;

(d) by omitting from paragraph (b) of sub-section (6) the word “master” (twice occurring) and substituting the word “employer”; and

(e) by omitting from sub-section (7) the words “one month” and substituting the words “three months”.

Applications.

16. Section 21 of the Principal Ordinance is amended—

(a) by omitting sub-section (3); and

(b) by omitting from sub-section (4) the word, figures and symbols “or (3)”.

17. Sections 22 and 23 of the Principal Ordinance are repealed and the following section substituted:—

“ 22. (1) In this section, ‘prescribed course’ means a course approved by the Board for the purposes of this section.

“ (2) Where—

(a) there is no prescribed course conducted within a reasonable distance of the place of living of an apprentice; and

(b) a prescribed course is available at another place as part of a continuous course of instruction,

the Board may direct the apprentice to attend the second-mentioned prescribed course.

“ (3) Where an apprentice attends a prescribed course in accordance with a direction given by the Board under sub-section (2)—

(a) the apprentice is entitled to be reimbursed the cost of necessary travelling, in connexion with his attendance at the prescribed course, to and from the place at which the prescribed course is held; and

(b) the apprentice is entitled to be paid, in respect of any period during which he is necessarily absent from his place of living, an allowance at the prescribed rate.”.

Board may direct apprentice to attend prescribed course.

Apprentices to be bound by indentures.

18. Section 25 of the Principal Ordinance is amended—

(a) by omitting from paragraph (a) of sub-section (4) the word “master” (twice occurring) and substituting the word “employer”; and

(b) by omitting from that paragraph the words “provided no special provisions to the contrary made by the Industrial Board are in force”.

Transfer of apprentice.

19. Section 28 of the Principal Ordinance is amended—

(a) by omitting sub-section (1) and substituting the following sub-sections:—

“ (1) Subject to this section, the Board may—

(a) with the consent of the parents or guardian, and the employer, of an apprentice; or

- (b) in any other case, after giving at least fourteen days' notice in writing to the parents or guardian, and the employer, of an apprentice,

authorize the transfer of the apprentice, either temporarily or permanently, from one employer to another, and authorize the assignment of the indentures of apprenticeship.

“(1A) Where the consent of the parents or guardian, or the employer, of an apprentice to the transfer of the apprentice has not been given, the Board shall not authorize the transfer—

- (a) until the period specified in the notice referred to in paragraph (b) of sub-section (1) has expired;
 - (b) unless the Board has considered any objections to the transfer raised by the parents or guardian, and the employer, of the apprentice; and
 - (c) unless the Board is of the opinion that in all the circumstances of the case it is desirable so to do.”;
- (b) by omitting from sub-section (2) the words “one master” and substituting the words “one employer”;
 - (c) by omitting from paragraph (b) of that sub-section the word “master” (twice occurring) and substituting the word “employer”;
 - (d) by omitting from paragraph (c) of that sub-section the words “within two months” and substituting the words “as soon as possible”;
 - (e) by omitting from paragraph (d) of that sub-section the word “master” and substituting the word “employer”; and
 - (f) by adding at the end thereof the following sub-section:—

“(3) Where the Board authorizes the temporary transfer of an apprentice but does not authorize the assignment of the indentures, the terms and conditions of the employment of the apprentice are such as the Board directs.”.

20. After section 28 of the Principal Ordinance the following section is inserted:—

“28A. (1) Where an apprentice—

- (a) is wilfully disobedient to lawful orders given to him by his employer or a manager, foreman or other employee of his employer having authority over the apprentice;
- (b) is guilty of any disgraceful or improper conduct or grossly misbehaves himself; or
- (c) absents himself from his employer's service without good cause or the consent of his employer,

his employer may apply to the Chairman for permission to suspend the apprentice.

Suspension of
apprentice.

“ (2) The Chairman shall, after making such investigations into the matter as he thinks necessary, grant or refuse permission for the suspension of the apprentice.

“ (3) Where an employer has, with the Chairman's consent, suspended an apprentice, the employer shall, as soon as practicable thereafter, forward to the Board a report in writing giving details of the suspension and shall, at the same time, forward a copy of the report to the apprentice.

“ (4) The employer or the apprentice may, within three weeks after the date of the suspension or refusal, as the case may be, appeal to the Board from the Chairman's decision.

“ (5) On an appeal under sub-section (4), the Board may—

- (a) revoke a suspension authorized by the Chairman;
- (b) confirm a suspension authorized by the Chairman; or
- (c) suspend the apprentice.

“ (6) Where—

- (a) the Board has confirmed a suspension, or suspended an apprentice under sub-section (5); or
- (b) the Chairman has authorized the suspension of an apprentice and the apprentice has not, within the time specified in sub-section (4), appealed to the Board,

the Board shall order that the indentures of the apprentice be cancelled.”.

Power of Board to cancel indentures in certain cases.

21. Section 31 of the Principal Ordinance is amended by omitting the words “ after conferring with the trade committee concerned or its representatives, and ”.

22. After section 31 of the Principal Ordinance the following section is inserted:—

Appeal.

“ 31A. (1) An appeal lies to the Court of Petty Sessions from an order of the Board under section twenty-eight A, twenty-nine or thirty-one.

“ (2) On an appeal under this section, the Court may confirm or set aside the order and may make such other order as to it seems just.”.

Certificate of cancellation.

23. Section 32 of the Principal Ordinance is amended by omitting the word “ Board ” (first occurring) and substituting the word “ Registrar ”.

24. Sections 35 and 36 of the Principal Ordinance are repealed and the following sections substituted:—

Restriction on the taking of apprentices.

“ 35. Where, pursuant to sub-section (2) of section sixteen, the Board has published a notice in the *Gazette* notifying its intention to declare a trade to be an apprenticeship trade, an employer in that trade shall not take an apprentice after the date of publication of the notice and before the coming into operation of a notice, under sub-section (1) of that section, declaring the trade to be an apprenticeship trade.

Penalty: Two hundred dollars.

“ 36. (1) Where a determination under section nineteen A is in force, a person shall not employ an apprentice, or attempt to induce a person to accept employment as an apprentice—

Apprentice not to be employed except in accordance with Board's determination.

- (a) at a lower rate of pay (including increased percentage for proficiency, if any) than the rate of pay to which the apprentice is entitled under the determination; or
- (b) under conditions of employment inconsistent with the determination.

“ (2) Where a determination under section 18 is in force in relation to an apprenticeship trade, a person shall not employ in that trade a number of apprentices greater than the number so determined.

“ 36A. (1) An employer shall not, without the consent of an apprentice under the age of eighteen years, require the apprentice to work overtime.

Overtime.

“ (2) An employer shall not require an apprentice to work overtime—

- (a) where the working of that overtime would interfere with the attendance of the apprentice at the Canberra Technical College or a course that is a prescribed course within the meaning of section twenty-two; and
- (b) unless at least one tradesman is employed at the same trade during the whole of the period of the overtime.”.

25. Section 44 of the Principal Ordinance is repealed and the following section substituted:—

“44. Where an information for an offence against this Ordinance is laid by a person other than—

Proceedings for offences.

- (a) a person authorized by the Board; or
- (b) a member of the police force of the Territory,

and the proceedings are dismissed or withdrawn, the Court may, if it thinks fit, order the person to pay to the defendant, in addition to any costs, such compensation as it thinks reasonable.”.

26. Section 46 of the Principal Ordinance is amended by inserting after the word “ Board ” (first occurring) the words “ and trade committees ”.

Attendance fees.

27. The Principal Ordinance is amended as set out in the Schedule to this Ordinance.

Amendments of Principal Ordinance.

SCHEDULE

Section 27

AMENDMENTS OF THE PRINCIPAL ORDINANCE

Section amended	Omit	Insert
Section 25 (1)	.. master	employer
Section 25 (2)	.. master	employer
Section 27 (1)	.. between the master of the master between the employer of the employer
Section 27 (2) (b)	.. by the master another master first-mentioned master by the employer another employer first-mentioned employer
Section 30 (2)	.. master	employer
Section 33 (2)	.. Any master the master Forty dollars Any employer the employer One hundred dollars
Section 37 master Fifty dollars employer Two hundred dollars
Section 38 (2)	.. Forty dollars Two hundred dollars
Section 41 journeymen	tradesmen