

[Extract from *Commonwealth of Australia Gazette*, No. 152, dated 30th November, 1939.]

## AUSTRALIAN CAPITAL TERRITORY.

No. 14 of 1939.

### AN ORDINANCE

#### To amend the Industrial Board Ordinance 1936-1938.

**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 1909-1938* and the *Seat of Government (Administration) Act 1910-1933*, as follows:—

1.—(1.) This Ordinance may be cited as the *Industrial Board Ordinance 1939*. Short title and citation.

(2.) The *Industrial Board Ordinance 1936-1938* is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Industrial Board Ordinance 1936-1939*.

2. After section nine A of the Principal Ordinance, the following section is inserted:—

“9B.—(1.) Without prejudice to any of the foregoing provisions of this Ordinance—

(a) if a member or a deputy member of the Board is guilty of such unbecoming conduct as renders him unfit to be a member or deputy of a member; or

(b) where a member or a deputy of a member of the Board no longer possesses the confidence of—

(i) the organization nominating him for appointment, or of the organization or local branch thereof whose officials signed the nomination paper for his election, as member or deputy of a member, as the case may be; or

(ii) any body which, in the opinion of the Attorney-General is representative of the majority of employees in the Territory,

his office of member or deputy of a member of the Board may, in accordance with this section, be declared vacant.

“(2.) Where the Attorney-General has reason to believe that any member or deputy of a member of the Board has been guilty of any such unbecoming conduct or does not possess the confidence of any such organization, local branch or body, the Attorney-General may call on him to show cause to the satisfaction of the

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Governor-General, within such period and in such manner as the Attorney-General specifies, why an order declaring his office vacant should not be made by the Governor-General.

“(3.) If the member or deputy of a member fails so to show cause to the satisfaction of the Governor-General, the Governor-General may make an order declaring his office vacant, and, upon the publication of the order in the *Gazette*, the office shall become vacant.”.

Submission of matters to Board.

3. Section sixteen of the Principal Ordinance is repealed and the following section inserted in its stead:—

“16.—(1.) A Minister of State, the Public Service Board and any organization shall be entitled—

(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.) Where any matter relating to the salaries, wages, rates of pay, or terms or conditions of service or employment of private employees in any industry is submitted to the Board, any employer in that industry shall be entitled to be represented before the Board on the hearing of such matter.

“(3.) A Minister of State, the Public Service Board or an organization, when submitting any matter for determination in pursuance of sub-section (1.) of this section, shall certify to the Board in writing as to whether the matter affects—

(a) Commonwealth employees;

(b) private employees; or

(c) both Commonwealth employees and private employees, in actual employment at the date of the submission.

“(4.) A certificate to be furnished by an organization under sub-section (3.) of this section may be signed by the secretary of the organization or by some person thereto authorized by the committee of management of the organization.”.

Penalty for breach of determination.

4. Section nineteen of the Principal Ordinance is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) Where any organization or person bound by any determination of the Board or by an industrial agreement relating to private employees commits any breach or non-observance of any term of the determination or agreement, such organization or person shall be guilty of an offence.

Penalty: One hundred pounds.”.

5. After section nineteen of the Principal Ordinance, the following section is inserted:—

“19AA.—(1.) An employer shall not dismiss an employee, or injure him in his employment, or alter his position to his prejudice, by reason of the circumstance that the employee is entitled to the benefit of a determination or industrial agreement made under this Ordinance. <sup>Injuring employee or employer entitled to benefit of determination.</sup>

Penalty: Fifty pounds.

(2.) An employee shall not cease work in the service of his employer by reason of the circumstance that the employer is entitled to the benefit of a determination or industrial agreement made under this Ordinance.

Penalty: Twenty-five pounds.”

6. Section nineteen A of the Principal Ordinance is amended— <sup>Powers of Inspector.</sup>

(a) by omitting sub-section (3.) and inserting in its stead the following sub-section:—

“(3.) An inspector may, at any time during working hours—

(a) enter any building, place or premises of any kind wherein, or in respect of which, any industry is being carried on, or any determination or industrial agreement has been made, or any offence against this Ordinance is suspected;

(b) require the production of, and inspect, examine and copy, any books, papers or documents relating to the salaries, wages, rates of pay or conditions of service of any employee in any such building, place or premises or any books, papers or documents the examination of which is in the opinion of the inspector necessary for the purpose of ascertaining whether any offence against this Ordinance has been committed;

(c) examine any person whom he finds in any such building, place or premises, either apart, or, if he thinks fit, in the presence of any other person, with respect to any matter under this Ordinance or the regulations or any determination or industrial agreement made thereunder and require any such person to make a statutory declaration as to the truth of the matters respecting which he has been so examined.”; and

(b) by omitting sub-section (5.) and inserting in its stead the following sub-section:—

“(5.) Any person who—

- (a) hinders or obstructs an inspector in the exercise of his duties;
- (b) fails to produce any copy, book, paper or document when required by an inspector in the exercise of the powers conferred upon him by paragraph (b) of sub-section (3.) of this section so to do;
- (c) fails to answer any question or makes a false or misleading statement in answer to any question put to him by an inspector in pursuance of paragraph (c) of sub-section (3.) of this section; or
- (d) fails to make any statutory declaration he is required by an inspector in pursuance of paragraph (c) of sub-section (3.) of this section to make,

shall be guilty of an offence.”.

Books, letters, documents, &c., to be evidence.

7. After section nineteen A of the Principal Ordinance, the following sections are inserted:—

“19B. In any proceeding for an offence against this Ordinance, any book, letter, document, paper or writing containing any reference to any matter or thing alleged to be done in contravention of this Ordinance or any copy thereof or extract therefrom shall, upon proof that the book, letter, document, paper or writing was produced by, or came from the custody, or was under the control of, a person charged with the offence or a responsible officer or representative of that person—

- (a) be admissible in evidence against that person; and
- (b) be evidence of the matters and things thereby appearing, and that the book, letter, document, paper or writing (or, in the case of a copy, that the original thereof) was written, signed, despatched and received by the person by whom it purports to have been written, signed, despatched and received, and that any such copy or extract is a true copy of or extract from the original of or from which it purports to be a copy or extract.

Keeping of time records.

“19c. Where any employer is required by any determination of the Board to keep or cause to be kept any time-book, sheet or card showing the names of the employees, the number of hours worked, the rates of pay and the wages paid to each employee from week to week, the employer shall keep or cause to be kept such time-book, sheet or card in his place of business or premises in the Territory.

“19D. Subject to anything to the contrary contained in any determination or industrial agreement made under this Ordinance, employees shall be paid fortnightly during working hours not later in the week than Friday. Payment of wages.”

“19E. Any person who commits an offence against this Ordinance, for which no penalty is expressly provided, shall be liable on conviction to a penalty not exceeding Twenty pounds.” Penalty for offences for which no other penalty provided.

Dated this twenty-ninth day of November, 1939.

GOWRIE

Governor-General.

By His Excellency's Command,

W. M. HUGHES

for Minister of State for the Interior.

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