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EMPLOYERS AND WORKMEN

UNDER THE

MUNITIONS OF WAR ACTS

<i>First Edition,</i>	-	<i>3rd March, 1916.</i>
<i>Do.</i>	<i>Second Impression,</i>	-	<i>13th March, 1916.</i>
<i>Do.</i>	<i>Third Impression,</i>	-	<i>10th June, 1916.</i>
<i>Second Edition,</i>	-	<i>10th March, 1917.</i>
<i>Do.</i>	<i>Second Impression,</i>	-	<i>21st April, 1917.</i>

EMPLOYERS & WORKMEN

A HANDBOOK EXPLANATORY OF THEIR
DUTIES AND RESPONSIBILITIES

UNDER THE

MUNITIONS OF WAR ACTS

1915 and 1916

WITH APPENDICES AND A COPIOUS INDEX

BY

THOMAS ALEXANDER FYFE

(One of H.M. Judges at Glasgow)

A CHAIRMAN OF MUNITIONS TRIBUNALS

SECOND EDITION

LONDON AND EDINBURGH

WILLIAM HODGE & COMPANY

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PREFACE TO SECOND EDITION.

WHEN this book was issued a year ago, the 1916 Act (which materially altered the original Act) had just been passed, and the Appeal Tribunals (which were first constituted by the 1916 Act) had not yet become operative. In the year which has elapsed, many interesting and important judgments have been pronounced by the Appeal Judges, and these are summarised and commented upon in the present volume. An important Dilution of Labour Scheme has also come into operation, and a great many Orders and Directions have been made by the Ministry of Munitions, the Admiralty, and other Government Departments, which are of interest to employers and workmen and their representatives; to chairmen, assessors, and officials of Munitions Tribunals; and to others affected by the Munitions Acts.

I am gratified to be assured from many sources that the first edition, despite its brevity, was found helpful in interpreting the scope and intention of this emergency legislation, and it is urgently represented to me that a new edition, embodying the experience of the past year, would be welcomed by the many who are deeply interested, but are too busy to find time to study for themselves the intricacies of the statutory enactments and official orders.

I have pleasure in acceding to the request that I should bring the book up to date. In doing so, I have discarded formalities, and endeavoured to present, in compact form, a complete Munitions Code.

T. A. F.

GLASGOW, *March*, 1917.

PREFACE TO FIRST EDITION.

THIS is not a legal treatise. It merely explains in popular language the scope and effect of the Munitions Acts. The surest way to avoid contravening any Act of Parliament is for all interested to make themselves familiar with its enactments.

My experience in the Munitions Tribunal convinces me that a very large proportion of the disputes which arise might be avoided, if employers or their representatives (especially under-managers, foremen and others who are in personal touch with the men) and also workmen or their representatives (especially Union officials, shop stewards and others who advise the men) were more careful to acquaint themselves thoroughly with the details of the novel conditions under which at present industrial work is conducted.

I venture to hope that this little book may be of some service in avoiding disputes.

For convenience of reference, I have, in an Appendix, imported the amendments into the text of the original Act, and printed the entire code in consecutive form, the original enactments being in black type, and the amendments in red, with Notes where explanation seemed necessary.

I have to acknowledge the valuable assistance of Mr. T. F. Wilson, Solicitor, the experienced Clerk of the Munitions Tribunals at Glasgow, who has been good enough to revise the proof sheets.

T. A. F.

GLASGOW, *March*, 1916.

CONTENTS.

	PAGE
EMPLOYERS AND WORKMEN UNDER THE MUNITIONS ACTS, - - - - -	1
APPENDIX I. —TEXT OF THE 1915 ACT (EMBODYING THE AMENDMENTS MADE BY 1916 ACT),	59
APPENDIX II. —CONTROLLED ESTABLISHMENTS—EXCESS PROFITS RULES, - - - - -	89
APPENDIX III. —LEAVING CERTIFICATE RULES, - - -	101
APPENDIX IV. —(1) MUNITIONS TRIBUNAL RULES, ENGLAND, &C., - - - -	109
(2) APPEAL TRIBUNAL RULES, ENGLAND, &C., - - - -	118
(3) MUNITIONS TRIBUNAL RULES, SCOTLAND, - - - - -	126
(4) APPEAL TRIBUNAL RULES, SCOTLAND, - - - - -	136
APPENDIX V. —ORDERING OF WORK REGULATIONS, -	147
APPENDIX VI. —ORDERS RELATING TO DILUTION OF LABOUR, - - - - -	151
APPENDIX VII. —ORDER RELATING TO WAR SERVICE BADGES, - - - - -	171
APPENDIX VIII.—ORDERS UNDER SECTION 7, - - - -	177
APPENDIX IX. —ORDERS EXTENDING DEFINITION OF MUNITIONS WORK, - - - - -	181
APPENDIX X. —ARMY RESERVE MUNITIONS WORKERS, -	185
APPENDIX XI. —SUMMARY OF APPEAL TRIBUNALS DECISIONS, - - - - -	199
INDEX, - - - - -	231

TABLE OF SECTIONS OF THE ACTS.

PRINCIPAL ACT, 1915.		AMENDING ACT, 1916.	
SECTION	PAGE	SECTION	PAGE
1 (1) (2), - - - -	59	1, - - - -	63
1 (3) (4), - - - -	60	2, - - - -	60 margin
2 (1) (2), - - - -	61	3 (1) (2) (3), - - - -	68
3, - - - -	61	4, - - - -	68
4, - - - -	62	5 (1), - - - -	69 margin
4 (1) (2), - - - -	63	5 (2), - - - -	69
4 (3) (4), - - - -	64	5 (3), - - - -	70
4 (5) (6), - - - -	65	5 (4) (5) (6), - - - -	71
5 (1) (2) (3), - - - -	66	5 (7), - - - -	72
5 (4), - - - -	67	6 (1) (2) (3), - - - -	72
6 (1), - - - -	67	7, - - - -	65
6 (2), - - - -	68	8 (1) (2) (3), - - - -	60
7 (1) (2) (3), - - - -	69	9 (1), - - - -	82
8 (1), - - - -	72	9 (2), - - - -	62
8 (2), 9, 10, - - - -	73	9 (3), - - - -	83
11 (1) (2), - - - -	74	10, - - - -	73 margin
12, - - - -	75	11, - - - -	63 margin
13, - - - -	76	12, - - - -	83
14 (1), - - - -	76	13, - - - -	80 margin
14 (2), - - - -	77	14, - - - -	75 margin
15 (1), - - - -	77	15, - - - -	64
15 (2) (3), - - - -	78	16 (1) (2), - - - -	74
15 (4), - - - -	80	17 (1) (2) (3), - - - -	75
16, - - - -	80	18 (1) (2), - - - -	78
17, - - - -	80	18 (3) (4), - - - -	79
18, 19, - - - -	81	18 (5), - - - -	78 margin
20 (1) (2), - - - -	83	19, - - - -	67 margin
Schedule I., - - - -	84	20, - - - -	83
Schedule II., - - - -	84	21, - - - -	61
		22 (1), - - - -	80
		22 (2), - - - -	67
		23, - - - -	61
		24, - - - -	66
		25, - - - -	81
		26, - - - -	83 margin
		27, - - - -	83

NOTE.—Enacting sections of 1916 Act are printed in full. Sections merely omitting or inserting words are noted on margin.

TABLE OF APPEAL TRIBUNALS DECISIONS.

	PAGE
<i>Abbott, &c. v. Cammell, Laird & Co.,</i> - - - -	- 227, 228
<i>Acme Steel Co. v. Stafford,</i> - - - -	227
<i>Anderson v. Reid,</i> - - - -	206
<i>Associated Ironmoulders v. Atlas Foundry Co., Ltd.,</i> - -	227
<i>Bennett v. King's Norton Metal Co., Ltd.,</i> - - - -	225
<i>Binns v. Nasmyth, Wilson & Co., Ltd.,</i> - - - -	228
<i>Boyns v. Mowlem & Co., Ltd.,</i> - - - -	206
<i>Briggs v. L. & S.-W. Railway Co.,</i> - - - -	221
<i>Colley v. Minister of Munitions,</i> - - - -	203
<i>Collins, &c. v. Brazil, Straker & Co.,</i> - - - -	219
<i>Curnock v. Butler & Co.,</i> - - - -	201
<i>Dines v. Mumford, Ltd.,</i> - - - -	201
<i>Donaldson v. Kearns & Co., Ltd.,</i> - - - -	202
<i>Doulton & Co. v. Brown,</i> - - - -	226
<i>Foden v. Jacquet-Maurel & Condac, Ltd.,</i> - - - -	207
<i>Gane v. Rees Roturbo Manufacturing Co.,</i> - - - -	- 206, 209
<i>Gleaves v. White & Poppe, Ltd.,</i> - - - -	204
<i>Gloucester Railway Carriage Co. v. Trapp,</i> - - - -	224
<i>Gosnell v. Minister of Munitions,</i> - - - -	203
<i>Guillet v. Benthall & Co., Ltd.,</i> - - - -	225
<i>Inglis & Co., Ltd. v. Walker,</i> - - - -	214
<i>Kinder v. Delta Metal Co., Ltd.,</i> - - - -	217
<i>Knowles v. Ollersett Collieries Co., Ltd.,</i> - - - -	222
<i>Losh, &c. v. Vickers, Ltd.,</i> - - - -	212
<i>Mayne v. Micanite and Insulators Co., Ltd.,</i> - - - -	222
<i>M'Kie & Baxter v. Barrie,</i> - - - -	199

TABLE OF APPEAL TRIBUNALS DECISIONS.

	PAGE
<i>Macleay, &c. v. Yarrow & Co., Ltd.,</i> - - - - -	205
<i>M'Niell v. John Ross & Co. (Minister's Appeal),</i> - - - - -	206
<i>Merry & Cuninghame, Ltd. v. Paterson, &c.,</i> - - - - -	227
<i>Morgan v. Fraser & Chalmers, Ltd.,</i> - - - - -	206
<i>Mullins v. London, Brighton and South Coast Railway,</i> - - - - -	209
<i>Norris v. Lancashire Dynamo, &c., Co., Ltd.,</i> - - - - -	211
<i>Padgett v. Hornsby & Sons, Ltd.,</i> - - - - -	202
<i>Payne v. Brazil, Straker & Co., Ltd.,</i> - - - - -	205
<i>Preston, &c. v. Knox,</i> - - - - -	223
<i>Rawnsley v. Bradford Dyers' Association, Ltd.,</i> - - - - -	207, 208
<i>Ritchie, Graham & Milne v. Dougan, &c.,</i> - - - - -	217
<i>Ryberg v. Lanston Monotype Corporation, Ltd.,</i> - - - - -	212
<i>Sandberg &c. v. Dawnay & Sons, Ltd.,</i> - - - - -	221
<i>Scottish Iron and Steel Co., Ltd. v. Hands,</i> - - - - -	211, 218
<i>Scottish Tube Co., Ltd. v. M'Gillivray,</i> - - - - -	210, 217
<i>Shaw v. Lincoln Wagon Co., Ltd.,</i> - - - - -	219
<i>Shelton Iron & Steel Co. v. Hassall,</i> - - - - -	228
<i>Smith v. Dennystown Forge Co., Ltd.,</i> - - - - -	210
<i>Stierlin, &c. v. General Stores & Munitions Co., Ltd.,</i> - - - - -	213
<i>Stoher & Co., Ltd. v. Hooper,</i> - - - - -	204
<i>Swales v. Great Eastern Railway Co.,</i> - - - - -	215
<i>Taylor & Co. v. Osborne & Co.,</i> - - - - -	225
<i>Thornycroft & Co., Ltd. v. Stenhouse,</i> - - - - -	224
<i>Waugh v. Duncansons, Ltd.,</i> - - - - -	226, 227

EMPLOYERS AND WORKMEN

UNDER THE

MUNITIONS OF WAR ACTS.

THE Munitions Acts form part of a large body of emergency legislation which has been necessitated by the war. Of course the outbreak of war in any country alters many social and economic normal situations, and necessitates special laws being promulgated, but this particular legislation was not enacted at the beginning of the war. Before the war had been very long in progress, however, it became apparent that an overwhelming supply of munitions of war for Great Britain and her Allies was the essential element in the successful prosecution of the war, and, to attain this, the organisation of an important section of the British industrial world upon a new basis became imperative. On 9th June, 1915, a new Government Department was created by the passing of the Ministry of Munitions Act, 1915, which added to the British Cabinet a Minister of Munitions, charged with the duty "to examine into and organise the sources of supply and the labour available for the supply of any kind of munitions of war."

5 & 6 Geo. V.
c. 54.

5 & 6 Geo. V.
c. 99.

5 & 6 Geo. V.
c. 51.

Order in
Council, 16th
June, 1915.

Many and varied difficulties faced the Minister of Munitions in carrying out this big commission, and legislation was necessary to give him the requisite powers for the direction and distribution of munitions work, in such a manner as to get the best results from

5 Geo. V.
c. 37, s. 1 (1)
(d).

the available resources. The Defence of the Realm Acts, which had been passed at the beginning of the war, only went the length of permitting the Government to use private factories for national work, and more than that was needed to bring the whole direction and distribution of munitions work under one control, for the purpose of ensuring continuous work, and the largest possible production. Accordingly, on 2nd July, 1915, there was passed the "Munitions of War Act, 1915," which, after a short and troubled life of only some six months, was, on 27th January, 1916, amended by the "Munitions of War (Amendment) Act, 1916," which is to be construed along with the earlier Act, the two together being cited as the "**Munitions of War Acts, 1915 and 1916.**"

5 & 6 Geo. V.
c. 54.

5 & 6 Geo. V.
c. 99.

5 & 6 Geo. V.
c. 99, s. 27.

The form the amending Act took was not the total repeal of the original Act, and the re-enactment of its clauses, along with the amendments, in an entirely new Act. In amending any Act of Parliament, parliamentary practice is to proceed by a separate amending Bill. As this book is intended for the use of busy men, who have neither the time nor the inclination to collate Acts of Parliament, I have in the appendix, instead of printing the two Acts separately, thought it more convenient to import the amendments into the original text in the appropriate places, so as to present the complete code in consecutive order; but, to show what is original enactment and what is amendment, the original text is printed in black and the amendments in red. I have added a few notes where explanation seemed necessary, and the whole as set forth in Appendix I. is hereafter referred to as "**The Act.**"

Appendix I.,
p. 59.

The scheme of this legislation briefly is that, for the time being, the Munitions Acts form the charter of

the producers of munitions of war; that employers and workmen are alike under the direction of the Minister of Munitions; that certain recognised methods of forcing settlement of trade disputes are declared illegal, and are temporarily supplanted by a system of statutory arbitration; that in many respects freedom of contract of service is temporarily abrogated; and that the excess profits arising from an increased volume of work, which in normal times fall to an employer, are, in controlled establishments, partially allotted to the State.

This drastic interference with many long recognised customs and practices, not to speak of settled economic laws, is justified only by the national need, and that this is

TEMPORARY LEGISLATION

is emphasised in the Acts. It is an emergency code, for the period of the war only. The original Act begins by calling itself an Act "to make provision for furthering the efficient manufacture, transport, and supply of munitions **for the present war.**" It ends with the declaration that it "shall have effect only so long as the office of Minister of Munitions and the Ministry of Munitions exist," and the Act which created that Ministry declared also that it "shall cease to exist on the termination of a period of twelve months after the conclusion of the present war, or such earlier date as may be fixed by His Majesty in Council." The obvious object in reserving of power to extend the Act for a year is that there may be time, if it is required, for carrying out the undertakings expressed in the Second Schedule, which is designed for the

1915 Act.
Preamble,
p. 59.

1915 Act, s.
20 (2), p. 83.

5 & 6 Geo. V.
c. 51, s. 6.

PROTECTION OF TRADE UNIONS.

This schedule embodies an agreement come to between

Sch. II., s. 2,
p. 84.

the Government and the allied trade unions. Its most essential undertaking is that "no change in practice made during the war shall be allowed to prejudice the position of the workmen in the owner's employment **or of their trade unions** in regard to the resumption and maintenance after the war of any rules or customs existing prior to the war." Every owner of a controlled establishment, or contractor, or sub-contractor, becomes a statutory party to this bargain between the Government and the trade unions; and any person is guilty of an offence, punishable by fine up to £50, who "**breaks or attempts to break**" this undertaking.

1915 Act, s.
4 (4), p. 64.

Whilst Schedule II. thus safeguards the after-war position of workmen and their unions, the Act itself, so far as controlled establishments are concerned, provides in most comprehensive language for the

SUSPENSION OF TRADE CUSTOMS

1915 Act, s.
4 (3), p. 64.

during the period of the war. "**Any** rule, practice, or custom not having the force of law **which tends to restrict production or employment**" is suspended, whether it be a general trade practice or custom, or a local shop rule. If there is dubiety as to whether any rule, practice, or custom does tend to restrict production or employment, that question falls within the arbitration scheme of the Act, and the decision of the Board of Trade, or an arbitration tribunal, is declared to be "conclusive for all purposes."

1915 Act, s.
4 (3), p. 64.

A practice or custom, if it falls within this provision—even although it may have been matter of contract between an employer and his workman, and been recognised for many years—ceases to be enforceable so

soon as an establishment becomes controlled. An agreement that workmen should not join a trades union was held to be a custom or practice within this provision (*Guillet v. Benthall & Co., Limited*, 1916, P. 224. Eng. App. Rep., p. 86).

The schedule seems sufficient to cover the matter of

NON-UNION LABOUR,

for, if it was the "practice" to employ only union labour before the war, that practice would naturally appear to be the practice to be resumed after the war; but as, in some quarters, doubt was entertained about this, the amending Act has expressly included the case where "it was the practice prior to the war to employ union labour exclusively."

1915 Act, s.
4 (4), p. 64;
1916 Act, s.
15, p. 64.

The purpose of the Acts is to expedite and increase the production of munitions, but the original Act did not define such work except to a limited extent. The amending Act gives a comprehensive definition of

"MUNITIONS WORK,"

1916 Act, s.
9 (1), p. 82.

which has a much wider meaning than it had under section 3 of the original Act. That covered only "the manufacture or repair of arms, ammunition, ships, vehicles, air craft, or any other articles required for use in war, or of the metals, machines, or tools required for that manufacture." The new definition covers practically the manufacture and repair of everything "**intended or adapted for use in war,**" that is to say, which is suitable for use in war, although not at the moment being used in actual war service.

1916 Act, s.
9 (1), p. 82.

The appeal tribunals have given a broad interpretation of "munitions work," and held to be included

- P. 222. such things as the manufacture of insulating materials for use in connection with the construction of electrical machinery (*Mayne v. Micanite Company, Limited*, 1916, Eng. App. Rep., p. 1); the repair of railway wagons belonging to a colliery which, although used for conveying coal to colliery customers, were also vehicles adapted for use in war (*Shaw v. Lincoln Wagon Company*, 1916, Eng. App. Rep., p. 11); and similarly the repair of railway locomotives (*Briggs v. London and South-Western Railway Company*, 1916, Eng. App. Rep., p. 43). The appeal tribunals have discarded the narrow view that “**adapted for use in war**” means being made fit for use in war by some alteration in structure or design, and have adopted the broad view that “adapted for use” means “suitable for use” in war, and to quote the words of Mr. Justice Atkin in *Shaw’s* case—“so far-reaching are the efforts of the belligerents in this war that there is hardly anything on the earth, in the air, or in the waters that could not under some circumstances be described as an article capable of use in war.”

The definition of munitions work is not limited to obvious engines of war, such as warships and guns. It covers also work which may be certified by the Board of Trade or the Minister of Munitions as “necessary for the successful prosecution of the war,” such as the manufacture and repair of any class of ships, or the manufacture or repair of metals, machines, or tools required for the execution of munitions. The Board of Trade, under this power, have certified work upon some classes of merchant vessels, including oil steamers, refrigerator steamers, steam trawlers, and steam drifters. The Minister of Munitions may make an order specifying materials

1916 Act, s.
9 (1) (a),
p. 82.

P. 82.

Order, 13th
May, 1916.

required for such munitions work, whereupon the manufacture of these materials becomes munitions work. The Minister of Munitions has exercised this power by specifying balloon fabric, constructional steel, fire brick, glass for constructional purposes, glass for optical purposes, lead compounds, magnesite brick, silica brick, materials required for or for use in the manufacture of explosives, worked timber, card clothing, all materials wholly or partly manufactured from wool, and lime.

See Orders,
p. 181.

The definition of "munitions work" also covers the construction, alteration, or repair of buildings, machinery, and plant for naval or military purposes, or intended for munitions work, including the erection of houses to accommodate munitions workers. This definition has been held to cover a sub-contract for erecting works for a controlled establishment (*Sandberg v. Dawney & Sons, Limited*, 1916, Eng. App. Rep., p. 70). The Minister of Munitions has also power under the Defence of the Realm Regulations to appropriate unoccupied premises for housing workmen engaged in the production, storage, or transport of war material.

1916 Act, s.
9 (1) (b), p. 82.

P. 221.

Def. of Realm
Reg., 2 (a).

The definition of munitions work covers also the construction, alteration, repair, and maintenance of docks and harbours and work in estuaries where such work is certified by the Admiralty to be necessary for the successful prosecution of the war. In the exercise of this power, the Admiralty have specified various docks, &c.

1916 Act, s.
9 (1) (c), p. 82.

Order, 13th
May, 1916,
p. 181.

The definition of munitions work covers also work in connection with the supply of light, heat, water, or power, or tramway facilities, or buildings, machinery, and plant required for such supply, where

the Minister of Munitions certifies that such supply is of importance for carrying on munitions work. Many gas, electricity, water, and tramway undertakings have been so certified.

Order, 13th
May, 1916,
p. 182.

The definition of munitions work covers also work in connection with the repair of fire engines, and any fire brigade appliances, where the Minister of Munitions certifies that such work is in the national interest.

Order, 13th
May, 1916,
p. 182.

The practical effect of this comprehensive definition is that all work which is designed to aid the successful prosecution of the war is munitions work, or may be made so by orders.

No formal order has yet been made including in "munitions work" the work of obtaining raw materials, as, for instance, the mining of coal, lead, or iron, although such work is obviously essential for munitions work; but the Minister of Munitions has made a recommendation asking employers to refrain from encouraging miners to transfer their services to munitions factories, and, wherever possible, to facilitate men who were previously engaged on coal mining to return to the mines if they so desire.

Cir. L. 71,
16th Oct.,
1916.

The Munitions Acts contemplate the possibility of labour troubles, which might be prejudicial to the production or transport of munitions, arising in industries outside the Munitions Acts, and power is reserved by royal proclamation to make Part I. of the Act applicable to disputes arising in any industry, and that whether a lock-out or strike is in existence or not. As the prohibition of a strike or lock-out is contained in this part of the Act, the effect of such a royal proclamation is instantly to place such an outside labour dispute in the same category as a dispute falling within the Act, that is

1915 Act, s.
3, p. 62.

to say, it must be settled by arbitration, and a strike or lock-out is illegal. Such a royal proclamation was, for instance, made on 13th July, 1915, applying Part I. of the Munitions Act to a dispute which had arisen in the coal mining industry of South Wales, and a similar proclamation on 24th October, 1916, applied the Act to a dispute concerning dock labourers on the Clyde.

Order 641,
13th July,
1915.

Order 732,
24th October,
1916.

The amending Act has cleared up doubts which prevailed as to

WHO IS A "WORKMAN"

within the meaning of the Act, by defining "workman" to include "not only persons whose usual occupation consists in manual labour, but also foremen, clerks, typists, draughtsmen, and other persons whose usual occupation consists wholly or mainly in work other than manual labour."

1916 Act, s.
12, p. 83.

Any workman may become a

MUNITIONS VOLUNTEER

by agreeing with the Minister of Munitions to work at any controlled establishment to which he may be assigned, and to remain there for the period of the war, or at least for six months. The forms for carrying out this agreement provide that the workman must get the standard rate of wages of the district to which he is transferred, and, if that is less than the rate he was receiving before enrolment, he is also to get, along with his wages, the sum necessary to make up the difference, which sum is recoverable by the employers from the Minister of Munitions. The practice of augmenting wages by paying a bonus raises the question whether a bonus is to be taken into account in calculating the difference between what the work-

1915 Act, s.
6, p. 67.

Form
W.M.V. 1.

W.M.V. 19,
23.

man had before enrolment, and what he is to get where he is sent. The question whether a bonus is to be regarded as wages is a question of circumstances. The general rule is that, if the bonus is "a sum certain or capable of being made certain to which a workman may become entitled in the ordinary course of his employment, on working more or less hard, or more or less long," the bonus is to be reckoned as wages, but not if it is merely discretionary on the part of the employer to pay it (*Collins and Others v. Brazil, Straker & Co.*, 1916, Eng. App. Rep., p. 27). When a question arises connected with wages or allowances of a workman assigned to a controlled establishment, the workman who is a munitions volunteer should, in the first instance, submit his claim to the Ministry of Munitions.

P. 219.

Cir. M.T. 30,
3rd June,
1916.
M.W.
71394/21.

Munitions volunteers are of two classes—(1) those who have found work for themselves, or through a labour exchange; (2) those assigned to a controlled establishment by the Minister of Munitions. The first class are ordinary workmen, to whom the Leaving Certificate Regulations apply. A local tribunal may grant leaving certificates to the first class, but the second class should be referred to the Ministry office.

Cir. W.M.V.
40.

A local munitions tribunal, however, has jurisdiction to settle the question whether a munitions volunteer is receiving the district rate of wages, because the volunteer agreement provides that breach of the undertaking may be dealt with by a munitions tribunal, which may impose a fine for breach not exceeding £3 (*Collins v. Brazil, Straker & Co.*, *supra*).

1915 Act, s.
6, p. 67.
1916 Act, s.
4, p. 68.
Form
W.M.V. 1.

A munitions volunteer should not be confused with a

RELEASED SOLDIER,

although the situation of the two classes is in some respects similar. The soldier temporarily released from the colours for munitions work remains a soldier, and one of the stipulations in the form of agreement which he signs is, "I understand that I am liable to return to military service at any time that I cease to be employed by any firm named by the Minister of Munitions, or if I am ordered to report myself for service with the colours by the competent military authority." Meantime the released soldier is relegated to what is termed the

Agreement,
A.R.M.W. 1,
p. 194.

ARMY RESERVE MUNITIONS WORKERS,

who are men who have been relegated to the A.R.M.W., and have entered into a formal agreement to engage in war work with any firm named by the Minister of Munitions, and to remain there during the war, for so long as is required by the Minister. The procedure for employers obtaining the services of Army Reserve munitions workers, and the conditions of their service, are set forth in a circular issued by the Labour Supply Department of the Ministry of Munitions, and printed in an appendix hereto.

Cir.
A.R.M.W.
40, Oct., 1916.

A.R.M.W.
40, Oct., 1916.

Appendix X,
p. 185.

Whilst a released soldier is in the employment to which he has been assigned by the Ministry, the Leaving Certificate Rules apply to him, subject to the Ministry being informed, through the Labour Exchange, of an application being made for a leaving certificate; but when a man has been assigned by the Ministry to a controlled establishment, and his services have been dispensed with by the owner of that establishment, he reverts to the position of an ordinary workman, as regards section 7, and so the Leaving

A.R.M.W.
40, s. 6, p.
186.

M.T., Cir. 44. Certificate Rules will apply to him unless or until he is again allotted to an establishment by the Minister.

The definition of "workman" in itself would seem to include apprentices, so that apprentices may be prosecuted for taking part in a strike, or for breach of the disciplinary order of the Minister of Munitions. But, as regards leaving certificates, the

POSITION OF APPRENTICES

is not that of ordinary workmen, for the Munitions Act does not abrogate apprenticeship contracts, and if workmen are serving as apprentices, the Leaving Certificate Regulations do not apply to them unless there are some very special circumstances. The whole subject of the position of apprentices is discussed in the case of *M'Kie & Baxter v. Barrie* (Scot. App. Rep., p. 23). Whether an apprentice should get a leaving certificate when he has finished his term of apprenticeship is also a question of circumstances, with, it is thought, a presumption in favour of the apprentice, for the Act directs a tribunal specially to have regard to the fact that an applicant for a leaving certificate "has left or desires to leave his work because he has recently completed a term of apprenticeship or period of learning his trade or occupation, and desires to obtain the full standard rate of wages applicable to fully qualified workmen in his trade or occupation." In the case above referred to (*M'Kie & Baxter v. Barrie*) the Scottish appeal judge said—"I agree that in the case of an ordinary workman the presumption is that he can serve best in his present employment; but, in the case of an apprentice who has recently completed a term of apprenticeship, I

think the presumption is the other way. The respondent is therefore entitled to his certificate unless the appellants can show that it is in the national interests that he should remain with them." But, in a subsequent case, the English appeal judge rather demurred to there being any presumption in favour of the apprentice, and considered that the right of an apprentice to obtain a leaving certificate must be judged of in each case according to its circumstances (*Dines v. Mumford*, 1916, Eng. App. Rep., p. 183).

P. 200.

The "standard wage" which the Act refers to in this connection means the full standard rate of wages payable to workmen of the class to which the apprentice belongs, and is not qualified by considerations of age or experience (*Curnock v. Butler & Co.*, 1916, Eng. App. Rep., p. 52), or by local custom to pay less for a period after a man has finished his term of apprenticeship (*Padgett v. Hornsby & Sons, Limited*, 1916, Eng. App. Rep., p. 137; *Donaldson v. Kearns & Co., Limited*, 1916, Eng. App. Rep., p. 143).

1916 Act, s. 5 (5), p. 71.

P. 201.

P. 201.

P. 202.

It is a recognised principle that masculine words in an Act of Parliament include feminine, unless the context implies the contrary. Accordingly, the

52 & 53 Vict. c. 63, s. 1(1).

FEMALE WORKERS,

who are now largely employed upon munitions work in controlled establishments, also fall within the Act, and the Minister of Munitions may make orders as to their wages or working conditions; but an employer who employs female workers should keep in view that he is not relieved of his obligation to comply with the **Factory and Workshops Acts**, nor will an order by the Minister of Munitions protect any person who contravenes the **Employment of**

1916 Act, s. 6, p. 72.

3 Ed. VII. c. 45, ss. 1, 13.

Children Act, 1903 (which defines a child to mean a person under the age of fourteen, and entitles a local authority to make bye-laws regulating the employment of such young persons). There is not, therefore, the same wide freedom of contract for the employment of females and young persons, as exists regarding adult males.

The 1915 Act recognised the necessity, in order to set free men of military age, and also to increase production of munitions, for what is commonly called

DILUTION OF LABOUR,

for not only skilled workmen, but semi-skilled, or unskilled, or female workers may be quite competent to perform, or assist in performing, munitions work. The Act contemplates the possible "introduction of semi-skilled men to perform work hitherto performed by a class of workmen of higher skill"; whilst it **safeguards the interest of the skilled workman** by declaring that "the relaxation of existing demarcation restrictions or admission of semi-skilled or female labour shall not affect adversely the rates customarily paid for the job." The amending Act gives the Minister of Munitions special power to regulate the wages of semi-skilled or unskilled workers in controlled establishments. To limit the execution of munitions work entirely to skilled labour would obviously not tend to the fullest output, and any custom or practice which tends to reduce output is what the Act emphatically discourages. The scheme of this legislation is that *all* labour is to be employed to the best advantage to the country, and the Minister of Munitions has power to regulate the proportion of skilled, semi-skilled, or female labour which will pro-

1915 Act,
Sch. II., ss.
4, 5, p. 85.

1916 Act, s.
7, p. 65.

1915 Act, s.
4 (3), p. 64.

mote the most expeditious, and the largest, output of munitions, having regard to the plant and equipment of each establishment. The State calls for the aid of every person capable of rendering industrial service, who is willing to work. It matters nothing at present whether a worker is a member of a trade union or not. The only thing of any consequence is his or her capacity for work. All workers in controlled establishments are for the time being under the direction of the Minister of Munitions, who may arrange with any workman to work at a particular establishment, "in accordance with arrangements made by the Minister of Munitions with or on behalf of trade unions." If the workman does not comply with his undertaking so to work, he is guilty of an offence under the Act; and if an employer dissuades, or attempts to dissuade, a workman from entering into such an undertaking, he also is guilty of an offence.

1915 Act, s.
6 (1), p. 67.

1915 Act, s.
6 (2), p. 68.

The dilution of labour scheme of the Munitions Act, briefly, is that if work, hitherto done by skilled workmen, can, with reasonable efficiency, be done by semi-skilled or unskilled workmen, or by women, it should be so done. To effect this, "Dilution Commissioners," nominated by the Government, effect agreements with the employers, and the workmen's trade society representatives, and adjust a basis of dilution for each establishment in a district. Such agreements have to deal with such matters as (1) encouraging co-operative effort to increase production and maintain steady output; (2) interchangeability of classes of workmen, and suspension of internal lines of demarcation; (3) utilisation to best advantage of worker's skill, and also of pneumatic, hydraulic, and

electric tools; (4) where practicable, the up-grading of skilled workmen; (5) the introduction into an establishment of (a) skilled men from allied trades, (b) skilled men from other trades, (c) unskilled men, and (d) women; (6) securing that wages be not adversely affected by relaxation of existing demarcation restrictions; (7) keeping records of departures from pre-war conditions; and (8) notice to workmen of, and, if desired, conference upon, proposed changes. The difficulties are obvious, but in some of the most important districts they have been already successfully overcome, by the wise co-operation of all interested, and, if approached in the same spirit in other districts, the success of the dilution scheme of the Act may be regarded as assured.

The Minister of Munitions is empowered to make orders as to wages and labour conditions for semi-skilled and unskilled workmen in controlled establishments, and also in regard to the employment of women engaged on munitions work. Whilst the amending Bill was being passed through Parliament, a series of recommendations was drawn up by the Munitions Labour Supply Committee. These were adjusted and embodied in letters known as L2 and L3. After the passing of the Act these letters were superseded by orders made by the Minister of Munitions under sections 6 and 7 of the 1916 Act. These orders were at later dates superseded by the orders which now regulate the labour of semi-skilled and unskilled workmen and women, and these are printed in an appendix hereto. The workmen are entitled to notice of changes of working conditions, and directions given by the Minister of Munitions by circular ought to be followed in giving notice, although the Act is complied

1916 Act, s.
7, p. 65;
1916 Act, s. 6,
pp. 67-72.

Appendix
VI., pp. 151-
167.
1915 Act, s.
4, p. 62.
Sch. II., s. 7,
p. 85.

with if the workmen actually do get notice (*Binns v. Nasmyth, Wilson & Co., Limited*, 1916, Eng. App. Rep., p. 169).

Amongst the most important provisions of the Act, because they affect by far the largest number of persons, are the provisions designed to promote continuity of employment. During the war, a workman is not free to sell his labour in the market of his own choice, nor is an employer free to engage labour where he can find it. Both are subject to the system of employment introduced by the Act, the main element in which is the use of what is familiarly known as a "clearance line," but is officially designated a

LEAVING CERTIFICATE.

An employer is liable in a heavy penalty if he engages a workman, who has within six weeks been engaged on munitions work, without seeing a certificate from his former employer that the workman is free to accept other employment, or a certificate to that effect granted by a munitions tribunal. The leaving certificate provisions of the Act apply to all persons engaged in munitions work, who are employed in an establishment of a class to which section 7 of the Act has been applied by order made by the Minister of Munitions, or by any Government Department to which he may delegate his powers in this matter, and the number of such establishments is now so great that employers are naturally chary of employing **any** worker who cannot produce a leaving certificate, and the likelihood of the worker having come from a munitions factory is so strong, that a leaving certificate has come to be recognised in the industrial world as a passport to employment.

1915 Act, s.
7, p. 69.
1916 Act, s.
20, p. 83.

It is quite common for workers to desire to engage in munitions work for the first time; but employers who are willing to engage them frequently have no means of verifying their statements as to previous employment. Workers also frequently want to change from civil to munitions employment. The rule contemplates that in such cases workmen may ask from a local munitions tribunal what is commonly called an

EXEMPTION CERTIFICATE

Leaving
Certificate
Rules, s. 4 (b),
p. 102.
Form M.T.
24.

to the effect that, in the opinion of the tribunal, the worker has not been employed on or in connection with munitions work within the last six weeks.

The statutory

Leaving
Cert. Rules,
Sch. I., p. 105.
P. 209.

FORM OF LEAVING CERTIFICATE

must be observed (*Gane, &c. v. Rees Roturbo Manufacturing Company, Limited*, 1916, Eng. App. Rep., p. 129), and the Minister of Munitions may make rules regarding its issue, or re-delivery, or replacement in case of loss, its contents, &c. Such rules have been made, and are printed in an appendix hereto.

Appendix
III., p. 101.

The official designation "**leaving** certificate" suggests, and the obvious contemplation of the Act is, that a

WORKMAN SHOULD REMAIN IN EMPLOYMENT

until he obtains a leaving certificate. It was held by a local tribunal that a workman who leaves his work bars himself from applying to the tribunal for a leaving certificate. The appeal judge, however, thought that there might be special circumstances justifying his leaving, and that his having left was not an

absolute bar to his application. But the appeal judge emphasised the workman's obligation to remain in the employment—"While I am of opinion that a workman is entitled to have his complaint entertained, the fact that he has left his employment without leave is of material importance in considering whether his claim ought to be sustained. A workman who, without just cause, leaves his work, and so disregards his obligations, is presumably not a person who can be relied upon to perform faithfully more important work elsewhere; and workmen who desire leaving certificates must understand that it will be difficult to obtain them unless they remain—as it is clearly their duty to remain—in their present employment until the question whether they are entitled to leave has been determined" (*Smith v. Dennytown Forge Company, Limited*, 1916, Scot. App. Rep., p. 13). P. 209.

The fact that a workman desires to

TRANSFER FROM UNSKILLED TO SKILLED LABOUR

does not necessarily entitle him to obtain a leaving certificate, although that is a material circumstance to be considered along with all the other circumstances. "It is possible, for example, that a man employed as a labourer might be indispensable in one establishment, while his services—even in skilled work—might be of minor importance, from a national point of view, in another establishment. The question always is, where can he render best service?" (*Scottish Tube Company, Limited v. McGillivray*, 1916, Scot. App. Rep., p. 19). P. 210.

The variety of circumstances in which leaving certificates are asked makes it impossible to lay down

any definite rules as to

WHEN A CERTIFICATE SHOULD BE GRANTED.

The appeal tribunals have given a good many decisions under the Leaving Certificate Regulations, which are collected in an appendix hereto.

P. 209.

When a worker seeks a leaving certificate, the Act assumes that the employer will not capriciously refuse it, but will consider the request from the point of view of the national interest. "If a workman can show that it is better in the national interest that he should work elsewhere, he is entitled to receive his certificate" (P. 211. *Scottish Iron & Steel Company v. Hands*, 1916, Scot. App. Rep., p. 1); and if employers' and workmen's representatives would both look at the matter from this broad point of view, both employers and their workmen might be saved a good deal of loss of time attending before local tribunals.

If a workman is refused a leaving certificate by his employer, he may

APPEAL TO A LOCAL TRIBUNAL,

and the tribunal, after inquiring into the circumstances, may either grant a certificate or order the employer to grant it. The proceedings before the tribunal in leaving certificate applications are not of the nature of a formal Court process, but rather of an inquiry Court. Evidence upon oath is not necessarily taken (P. 217. *Kinder v. Delta Metal Company, Limited*, 1916, Eng. App. Rep., p. 51; P. 217. *Scottish Tube Company, Limited v. M'Gillivray*, 1916, Scot. App. Rep., p. 16), although it frequently is when facts are in dispute, for it is always, of course, competent for any tribunal to require sworn testimony.

A peculiar feature of the procedure is that the parties do not necessarily require to attend before the tribunal personally, for either party may state his case in the form of a letter. This has its conveniences, but it has also its disadvantages, the chief of which is that statements made in a letter cannot be tested by cross-examination, and that, if one party is personally present, supported, possibly, by other witnesses, his version of the facts is quite likely to overbear the other party's written version. It is eminently desirable that, whilst lodging written statements beforehand is most convenient, and helpful in saving time at the tribunals, neither party should rely upon a letter alone, but that, wherever practicable, a representative who is conversant with the facts should attend to support the written statements, or (what is more important) meet statements made for the other side, which the letter most probably has not anticipated, and which may be of the nature of a surprise.

Eng.
Tribunal
Rules, Article
12 (1), p. 114.
Scot.
Tribunal
Rules, Article
12 (3), p. 132.

The Act regards

TAMPERING WITH A LEAVING CERTIFICATE

as a most serious offence, either by employers or workmen. It is one of the exceptions to the rule that imprisonment is incompetent for offences under the Munitions Acts. It is also an exception to the rule that offences are dealt with by a munitions tribunal. This offence is to be tried under the Summary Jurisdiction Acts, and the penalty may be imprisonment, with or without hard labour, for a term not exceeding three months, or a fine not exceeding £50. These severe penalties may be incurred by granting a false certificate, or by altering or tampering with a certificate, or by per-

1915 Act, s.
12, p. 75.
1916 Act, s.
12, p. 76.

sonating the holder of a certificate, or by allowing any other person to have possession of a certificate issued to a particular workman.

The counterpart of these drastic restrictions upon workmen changing their sphere of work is found in the equally drastic provisions of the Act regarding

DISMISSAL OF WORKMEN.

1916 Act, s.
5 (3), p. 70.

Leaving
Cert. Rules,
s. 10, p. 103.

When a workman is dismissed with less than a week's notice, or wages in lieu of notice, the employer must notify the local labour exchange within twenty-four hours. The workman may apply to a local munitions tribunal for

COMPENSATION FOR DISMISSAL,

and the tribunal may award compensation, not exceeding £5, unless the tribunal is of opinion that, owing to the discontinuous or temporary nature of the employment or the misconduct of the workman, the dismissal was justified.

1916 Act, s.
5 (3) Proviso,
p. 70.

Leaving
Cert. Rules,
s. 12, 13, pp.
103-104.

Minister's
Memo. MM.,
14th Jan.,
1917.

The Act expressly excludes from this provision workmen engaged in ship repairing, and any other class of workmen who may be exempted by the Minister of Munitions in respect that the circumstances of their employment are such that the provisions regarding compensation are not applicable. Obviously this compensation provision does not apply to a workman whose contract of service is terminated otherwise than by the act of the employer; nor to a workman who has been employed to do a specific piece of work, and whose employment naturally terminates with the completion of that piece of work; nor to a workman who has been engaged for a specific

period of time, and whose engagement naturally terminates by the lapse of that time.

Much dubiety prevails as to the

AMOUNT OF COMPENSATION

which is sanctioned by the Act. Some workmen claim a week's wages as the minimum; others claim £5. But the intention of the Act clearly is only to **indemnify** a workman (up to £5 as a maximum) for **loss actually sustained** in consequence of his having been dismissed without notice. "The principle to be applied by the tribunal in deciding a claim for compensation under the Act is the same as would be applied in deciding a claim for damages for wrongful dismissal. The tribunal must see what loss the workman has suffered by being dismissed without receiving a week's notice or wages in lieu of notice" (*Morgan v. Fraser & Chalmers*, 1916, Eng. App. Rep., p. 109; *Anderson v. Reid*, 1916, Scot. App. Rep., p. 4). The amount of compensation to be awarded is a matter of fact to be determined by the local tribunal, and is not subject to review by the appeal tribunal (*Anderson v. Reid, supra*). P. 206.

A workman's right to get a week's notice, or a week's wages in lieu of notice, is the *quid pro quo* of the employer's right to retain a workman by refusing to grant him a leaving certificate. But

REFUSAL OF A LEAVING CERTIFICATE

must be on reasonable grounds, for a workman, or his trade union representative, has the right to complain to the local tribunal of his district that an employer has "unreasonably refused or neglected to issue such a certificate." If the tribunal is of opinion that such

1915 Act, s. 7 (2), p. 69.

1916 Act, s. 7
(2), p. 69.

a complaint is well founded, the tribunal itself may there and then issue a leaving certificate to the workman (which is the common procedure); or the tribunal may order the employer to issue a certificate, and may also order that, in the event of failure to issue the certificate, the employer shall be fined £1 for each day's non-compliance with the order to do so. Of course, that does not run when an appeal is taken, and in practice it is when an appeal is contemplated that the tribunal orders the employer to issue the certificate.

Order 315,
18th May,
1916.

In the ordinary case of refusal of a certificate to a workman who merely desires to change his sphere of labour, there is no penalty attached to the refusal, even if the tribunal should think that the refusal was unreasonable; but when a workman has been "dismissed or discharged," the obligation of the employer is to "**forthwith** give him such a certificate"; and, if he fails to do so, a local tribunal, **in addition to** issuing, or ordering the issue of, the certificate, may order the employer to pay the workman a sum not exceeding £5, "unless the tribunal is of opinion that the workman was guilty of misconduct for the purpose of obtaining dismissal or discharge." This penalty is distinct from the £5 compensation penalty for failure to give a week's notice, or a week's wages in lieu of notice. The arrangement of section 5 (2) of the 1916 Act is somewhat peculiar, but the compensation which it gives to a discharged workman is compensation for being unreasonably refused a leaving certificate, which, of course, infers that no claims under section 5 (2) can arise to a workman who promptly obtains a certificate so soon as he asks for

1916 Act, s.
5 (2), p. 69.

P. 70.

it (*Doulton & Co., Limited v. Brown*, 1916, Scot. App. P. 226. Rep., p. 48).

But a workman may not be discharged, and yet he may suffer interruption of his wage earning. His place of work may, for some reason, be temporarily without work for him. In normal times he would, in that event, look for work elsewhere. But in these times he cannot do that, unless he has got a leaving certificate. The Act accordingly puts into the same position as a dismissed workman the following, viz.:—

(a) a workman who has for a period of more than two days been given no opportunity of earning wages; (b) a workman who justifiably leaves his employment on account of the conduct of his employer or “any agent of the employer”; that is to say, such a workman becomes entitled to obtain a leaving certificate forthwith, and to be compensated up to £5 if a certificate is unreasonably refused. P. 70.

What may be “conduct” on the part of an employer or his agent which would warrant a workman leaving his employment is, of course, a question of circumstances, but the *onus* would rest upon the workman to justify his leaving, and so this case is not likely very frequently to present itself; but the other case—deprivation of wage-earning for more than two days—does very frequently present itself in varied forms.

The Act takes no cognisance of the reason why a workman may be for more than two days deprived of the opportunity of earning wages. The **fact** that he has been so deprived is alone regarded. “Days” in this section means “working days,” as distinguished from Sundays and recognised holidays (*Bennett v. King's Norton Metal Company*, 1916, Eng. App. Rep., P. 225.

p. 114; *Merry & Cuninghame v. Paterson, &c.*, 1916, Scot. App. Rep., p. 28). A workman who has been deprived of the opportunity of earning wages for more than two days becomes entitled to obtain a leaving certificate, and possibly also compensation up to £5 if the certificate is unreasonably refused when it has been asked for. The words "opportunity of earning wages" have been construed to mean that the workman has been deprived of the opportunity of earning his **usual** rate of wages. It is therefore no answer to a claim under section 5 (2) that, although the works may have been closed down, the workman complaining was offered employment, if that employment carried wages less than his usual rate (*Taylor v. Osborn & Co.*, 1916, Eng. App. Rep., p. 163).

P. 225.

Nor is it a good answer to a claim under section 5 (2) that the closing down of works was not the voluntary act of the employers, but was forced upon them by the breakdown of plant or machinery, the necessary repair of which occupied more than two days (*Acme Steel and Foundry Company v. Stafford and Others*, 1916, Scot. App. Rep., p. 52; *Bennett v. King's Norton Company*, 1916, Eng. App. Rep., p. 114).

P. 227.

P. 225.

It is a peremptory direction of the Act that a workman is not to be dismissed unless he gets a

WEEK'S NOTICE OR WEEK'S WAGES

1916 Act, s.
5 (3), p. 70.

in lieu of notice. If he is, the employer must satisfy a local tribunal that he was justified in dismissing the workman because of (a) the discontinuous or temporary nature of the employment; or (b) the misconduct of the workman. The *onus* of proving justification for dismissal always rests upon the employer, who should therefore be careful to preserve evidence. It was, in

pre-war times, a common practice to suspend a workman for shop offences, such as bad timekeeping, or insubordination, or other misconduct, but such shop practices—at all events, in controlled establishments—are in abeyance during the war, and a foreman should recollect that the circumstances may be such that

SUSPENSION MAY BE DISMISSAL

within the meaning of section 5 (2), and that he may make his employer liable in compensation if he fails to justify the dismissal. A workman should not be suspended, but should be prosecuted for such offences under the Disciplinary Regulations enacted by the Minister of Munitions to be posted in every controlled establishment, and as it is quite likely, especially where a number of men are dismissed together, that the employer's evidence as to justification may be contradicted by a greater volume of evidence for the workmen, it is safe policy rather to rely upon the Disciplinary Regulations to check bad timekeeping, or insubordination, or drunkenness, or other misconduct, and, wherever practicable, to give workmen a week's notice of the termination of their employment. P. 148.

Where a workman is dismissed without a week's notice, or a week's wages, it is the obligation of the employer within twenty-four hours to

REPORT TO THE LABOUR EXCHANGE

1916 Act, s. 5
(3), p. 70.

the fact of the dismissal and the reason for it, but an employer is not barred from founding on misconduct of the workman, as justifying dismissal, by failing to state it in his report to the Labour Exchange; and misconduct may be pleaded in answer to a claim for compensation, even although the misconduct was not

Leaving
Certificate,
Rule 10, p.
103.

P. 205.

known to the employer at the time of dismissal (*Payne v. Brazil, Straker & Co., Limited*, 1916, Eng. App. Rep., p. 223). Whilst a time is fixed for the employer thus reporting, and the direction to report is peremptory, no time is fixed within which the dismissed workman may avail himself of his privilege of claiming compensation. A local tribunal held in one case that what the Act contemplates is that the workman also must make his claim within twenty-four hours; but on appeal this was not supported, although the appeal judge recognised the principle that a claim should be made timeously. "It is in the interests of both workers and employers, and is clearly in accordance with the spirit and intention of the Acts, that all claims should be lodged and disputes settled with the least possible delay, and any claim which is unreasonably delayed ought to be rejected" (*M'Lean and Others v. Yarrow & Co., Limited*, 1916, Scot. App. Rep., p. 5).

P. 205.

The

REASONS FOR ASKING LEAVING CERTIFICATES

P. 12.

are very varied, and it is not possible to lay down any hard and fast rules as to when a certificate should be granted and when it may be refused. The Act directs munitions tribunals in determining whether a certificate has been unreasonably refused to have regard to two special things. One is whether an applicant has recently completed his apprenticeship. This has already been referred to. The other is whether the employer has failed to observe the fair wages clause required by resolution of the House of Commons to be inserted in Government contracts. The resolution here referred to was passed by the House

1916 Act, s. 5
(5), p. 71.

of Commons on 10th March, 1909, and requires contractors to "pay rates of wages and observe hours of labour not less favourable than those commonly recognised by employers and trade societies (or, in the absence of such recognised wages and hours, those which in practice prevail amongst good employers) in the trade in the district where the work is carried out. Where there are no such wages and hours recognised or prevailing in the district, those recognised or prevailing in the nearest district in which the general industrial circumstances are similar shall be adopted. Further, the conditions of employment generally accepted in the district in the trade concerned shall be taken into account in considering how far the terms of the fair wages clauses are being observed." Whether the Fair Wages Resolution is being observed is a question of fact for a local munitions tribunal, not a question of law for the appeal judge; and, where there is no settled rate of wages in a district, it rests with the workman founding upon non-observance of the Fair Wages Resolution to show the tribunal what is the nearest district, and its wage, not upon the tribunal to make independent inquiry (*Mullins v. London, Brighton, and South Coast Railway Company*, 1916, Eng. App. Rep., p. 178).

P. 208.

Apart from these special matters, the granting or refusing of a leaving certificate is a matter for the discretion, first of the employer, and then of the munitions tribunal.

Applications for leaving certificates are frequently based upon health reasons. Ill-health is also frequently offered as an excuse for bad timekeeping. Applicants ought to keep in mind that, in either case, a

MEDICAL CERTIFICATE

must be produced, and that a medical certificate in vague, or in mere general, terms will not be accepted by a munitions tribunal (*Colley v. Minister of Munitions*, 1916, Scot. App. Rep., p. 21). If a medical certificate is unsatisfactory, the tribunal may direct the workman to submit himself for examination to one of the certifying factory surgeons who have been nominated for this duty in each tribunal district, and, in exceptional cases, if the tribunal find it necessary, this medical referee may be called as a witness. In an appeal to employers to aid in working this novel industrial system, the Minister of Munitions said, "Much must always depend upon the spirit in which employers, works managers, and foremen use the powers which the system of leaving certificates gives them. In particular, they must remember that the system has been adopted on grounds of public policy, and not to serve the interests of individual employers when no question of the national advantage is involved. A responsibility is placed upon every one put in authority in an establishment to which the system applies to see that it is worked with the least possible hardship to the workpeople, whose free choice of employment it has been found expedient temporarily to restrict." In a similar appeal to the workers, the Minister said—

"Many workpeople do not understand why the system of leaving certificates has been introduced. The answer is that the war can only be won by an overflowing supply of munitions, and that this supply depends in great measure upon the workpeople who are producing it continuing steadily in their existing employment."

The paramount consideration in every case is

P. 202.

Cir. M.W.
74735/12.

Memorandum,
4th
March, 1916.

Circular,
4th March,
1916.

1916 Act, s.
5 (5), p. 71.

whether the national interest can be best served by the workman remaining where he is, or by his shifting to another sphere of work; but there are often other minor considerations which ought not to be overlooked, such as health, family circumstances, and the like. So long as a workman is receiving the standard wage of the district where he works, the question of pay is not the important question, although to the workman it quite naturally appears to be so, especially if he thinks he could make more under some other employer. It is a very common misconception on the part of workmen, in making application for leaving certificates to a local tribunal, that the functions of that tribunal include the settlement of wages disputes, and the sole object of a great many applications for leaving certificates is to enlist the aid of the tribunal to obtain a rise in wages. But it is no part of the business of the tribunals to deal with wages questions. Such questions are for the Board of Trade to adjust, through the Committee on Production, or other arbitration machinery.

1915 Act,
Part I., pp.
59-62.

One of the most emphatic provisions of the Act is that, during the war, whatever differences may arise, there shall be

NO STRIKE OR LOCK-OUT.

1915 Act, s.
2 (1), p. 61.

The only exception to this absolute rule is where the Board of Trade fail to deal with a difference for twenty-one days after it has been reported to them; and this is so very unlikely to occur that the Act may be said to make a **strike or lock-out absolutely illegal** during the period of the war, and possibly for a year afterwards. Under the Act the meaning of the terms "strike" and "lock-out" are broader than their

generally accepted meaning in normal times. Workmen need not necessarily walk out, to be on strike, nor need the doors be closed against the men to constitute a lock-out. **Any concerted action** by workmen, which involves any stoppage of work, with the purpose of compelling an employer, or to aid workmen to compel an employer, to accept any "terms or conditions of or affecting employment," is, in the sense of the Act, a strike; and a lock-out has a broader meaning than closing the door of an establishment. It includes **any suspension of work**, or refusal to continue to employ workers, if done in order to compel them, or to aid other employers to compel workers, to accept employment conditions. The scheme of the Act is that during the period of the war there is to be

1915 Act, s.
19 (b), p. 81.

1915 Act, s.
19 (a), p. 81.

Sch. II., s. 8,
p. 85.

NO STOPPAGE OF WORK

with the purpose either of workmen coercing employers, or employers coercing workmen, to accept working conditions. Each workman taking part in a strike is liable to be fined £5 for each day or part of a day the strike lasts; and the penalty for taking part in a lock-out is £5 per day for each man locked out.

1915 Act, s.
14 (1) (b) (c),
p. 77.

The strike or lock-out prohibition is the counterpart of the arbitration scheme of the Act. The prohibition applies to employers or employees engaged on or in connection with "munitions work," and, as we have seen, munitions work has now a very wide meaning.

Pp. 5-8.

So far as the Munitions Act itself is concerned, the prohibition against a strike only applies to **a person employed** who has a difference with his employer as to wages or working hours, "or otherwise as to terms or conditions of or affecting employment." The

S. 2 (1), p. 61.

S. 3, p. 61.

Munitions Act itself does not reach the

INSTIGATOR OF A STRIKE OR LOCK-OUT,

but any person who encourages such methods of attempting to force a settlement of industrial differences takes the serious risk of coming within the much more drastic penalties of the Defence of the Realm Regulations, for these apply to **any person** who, *inter alia*, "attempts to impede, delay, or restrict the production, repair, or transport of war material or any other work necessary for the successful prosecution of the war"—a broad enactment which would seem very obviously to reach any person who, by encouraging a strike or lock-out, interrupts the continuity of work on or in connection with munitions. Articles 42-58.

But whilst the Act is emphatic that a strike and a lock-out, as weapons in industrial warfare, are for the present laid aside, it makes full provision for the

SETTLEMENT OF DISPUTES.

If any dispute arises "as to rates of wages, hours of work, or otherwise **as to terms or conditions of or affecting employment,**" whether between an employer and workers or between classes of workers, any of the interested parties, or their representatives, may report the difference to the Board of Trade (a certificate by the president or an official that a difference has or has not been reported being sufficient evidence of that). When reported, the Board may within twenty-one days settle the dispute. If they fail to do so, the Board of Trade may refer it to arbitration. If the dispute is one between employer and workers, and if the Board consider it a *bona fide* difference, they are bound to refer it. 1915 Act, s. 3, p. 61.
1916 Act, s. 21, p. 61.
1915 Act, s. 2 (1), p. 61.

S. 1 (2), p. 60. If the Board of Trade consider that means for settlement already exist, in pursuance of an agreement between employers and workers, the Board may refer the difference for settlement by those means, in which event, of course, an award so obtained will be equally binding as if it had been obtained from a Board of Trade Arbiter, or a Court of Arbitration, and failure to comply with such award will be equally an offence. If settlement thus is not ordered, or is unduly delayed, the Board may remit the dispute for settlement under the Act by the Committee on Production, or by a single arbiter (to be appointed by the Board of Trade failing agreement), or by a

1915 Act,
Sch. I., p. 84.

COURT OF ARBITRATION,

consisting of an equal number of employers' representatives and workmen's representatives, with a chairman appointed by the Board of Trade. The parties may mutually select any of these arbitration tribunals, and, failing their agreeing, the Board of Trade will decide.

1915 Act,
Sch. I., p. 84.
1916 Act, s.
23, p. 61.

The whole arbitration scheme is contained within the Act itself. The Arbitration Act, 1889, does not apply to any dispute under the Munitions Acts.

1915 Act, s.
1 (1), p. 59.

A "difference" may with advantage be referred before it develops into an actual "dispute," for arbitration is competent "if any difference exists **or is apprehended.**"

1915 Act, s.
3, p. 62.

The statutory arbitration scheme is primarily for the settlement of differences in relation to munitions work, but it may be applied by royal proclamation to work of any description where a difference has arisen, if "the existence or continuance of the difference is directly or indirectly prejudicial to the manufacture,

transport, or supply of munitions of war." The Minister of Munitions has power to create a

SPECIAL ARBITRATION TRIBUNAL

1916 Act, s. 8
(1), p. 60.

to deal with differences arising out of directions given by the Minister, or which he is empowered to give, relating to the wages and working conditions of **female workers** employed in an establishment to which section 7 has been applied, or of **semi-skilled** or **unskilled workers** employed upon munitions work in a controlled establishment. The Minister of Munitions may also refer to this special tribunal **for advice** "any question as to what directions are to be given by him" relative to these classes of workers. If the matters to be submitted to this special tribunal relate to **female workers**, the tribunal shall include **at least one woman**. In any arbitration the

S. 8 (2), p. 60.

1916 Act, s.
8 (3), p. 60.

AWARD MAY BE RETROSPECTIVE.

The award is final, and **all parties** to the reference **are bound by the award**.

1915 Act, s.
1 (4), p. 60.

REFUSAL TO ACCEPT AN AWARD

makes an offender liable in a penalty not exceeding £5 for each day or part of a day during which the award is not complied with; and if the offender is an employer for each man in respect of whom the contravention takes place.

1915 Act, s.
14 (1) (a), p.
76.

WHAT MAY BE REFERRED TO ARBITRATION

includes every kind of difference concerning "**terms or conditions of or affecting employment** on or in connection with munitions work." The bulk of the work of an establishment must be munitions

1915 Act, s. 3,
p. 61.

work to bring it within the arbitration provisions, but if the work is substantially munitions work, the establishment is not excluded merely because some inconsiderable portion of the work done may be intended for civil use. The Act specially mentions differences as to **rates of wages** and **hours of work**, which are, of course, the two subjects upon which labour disputes most frequently arise. The decision of an arbitration tribunal upon both these questions is much simplified by the removal for the time being of the element of rules, practices, or customs which tend to restrict production or employment. But the question may arise whether a rule, practice, or custom does so tend, and that question must first of all be referred to the Board of Trade, who may either themselves settle it, or, "if they think it expedient, or either party requires it," they may refer it to an arbitration tribunal. The decision of the Board of Trade as to whether, and when, a difference has been reported to them is declared to be "conclusive for all purposes."

When a difference concerns

RATES OF WAGES

the arbitration tribunal must have regard to several things. If the difference arises in a controlled establishment, the first question is whether, if a change in the wages of any **class of workers** has been proposed, the proposal has first of all been submitted to the Minister of Munitions, for it is only if he has withheld his consent that arbitration is competent at all. There must be kept in view also the undertakings in Schedule II. of the Act as regards the introduction of semi-skilled labour or female labour. Then as

regards female workers and semi-skilled and unskilled workers, the Minister of Munitions may have given special directions, or the Factory Acts may have imposed conditions or restrictions which must be regarded by the tribunal.

1916 Act, s. 7, p. 65.

Differences concerning

HOURS OF WORK

are probably less likely to arise, because the rules, practices, and customs which are suspended largely concerned working hours. For the present the matter of working hours is very much a matter for adjustment between employers and workers, or their representatives. The Minister of Munitions also has power to give directions as to the "general ordering of the work" in a controlled establishment, and such directions employers and workmen are alike bound to comply with. The differences accordingly which may arise under this head are probably more likely to be differences between "classes of persons employed" than between employers and workers. It has to be kept in view always that

1915 Act, s. 4 (5), p. 65.

1915 Act, s. 1 (1), p. 59.

FEMALE WORKERS' HOURS

may be affected not only by special direction by the Minister of Munitions, but also by the provisions of the Factory and Workshops Acts.

1916 Act, s. 7, p. 65.

The part of the Act which most seriously affects employers is that entitling the Minister of Munitions to declare any place where war work is carried on to be a

CONTROLLED ESTABLISHMENT.

1915 Act, s. 4, p. 62.

It is very seldom that an Act of Parliament coins a phrase which carries its own meaning so obviously on

its face. By a simple order, the Minister of Munitions may designate any establishment where war work is done as a "controlled establishment," and immediately it becomes "controlled" indeed, for its owners then cease to be free to conduct their own business in their own way, and the

STATE SHARES IN THE PROFITS.

The effect, broadly speaking, of an establishment becoming controlled is that the State becomes a sort of statutory partner in the industrial concern, but a partner of a very unusual type, who neither contributes any capital nor assumes any liabilities, and yet takes the lion's share of the enhanced profits arising from exceptional industrial activity, which would in normal circumstances go to the owner of the establishment. The circumstances must necessarily be very varied which enter into the question

WHAT ARE EXCESS PROFITS?

that is to say, the net profits so far as they exceed by one-fifth the standard profits. The means for adjustment of figures must necessarily, in such an exceptional arrangement, be elastic in their nature, and the Act itself merely sets forth the principles of the arrangement, giving the Minister of Munitions a wide discretion to meet the special circumstances of individual cases. The Minister of Munitions has power to make rules for carrying out his powers, and for fixing fair figures. The Act defines the

1915 Act, s.
5 (4), p. 67.

1915 Act, s.
5 (2), p. 66.

STANDARD AMOUNT OF PROFITS

for any period to be the average of "the amount of the net profits for the two financial years of the establish-

ment completed next before the outbreak of the war, or a proportionate part thereof"; but if the Minister is of opinion that this average may not afford a fair standard of comparison, he may agree with the owner to substitute another agreed-upon figure as the standard, and in arriving at this figure there may be taken into account the profits or losses of other establishments belonging to the same owner. If the Minister and the owner cannot agree upon a figure, and if the owner of the establishment so requires, the standard is to be fixed by a referee, or a board of referees. But if an owner requires referees to be called in, and they think that the reference to them was unreasonable, they may direct that any costs payable by the owner shall be paid out of the divisible profits.

1915 Act, s. 5 (3), p. 66.

1915 Act, s. 5 (3), p. 67.

1916 Act, s. 22 (2), p. 67.

The Minister of Munitions is entrusted with a discretion as to

WHAT ESTABLISHMENTS MAY BE CONTROLLED.

1915 Act, s. 4, p. 62.

If he "considers it expedient for the purpose of the successful prosecution of the war," he may make an order in regard to "**any establishment in which munitions work is carried on,**" but if the Minister of Munitions "considers that it is practicable to do so" he may exempt part of an establishment where no munitions work is carried on, and treat that part as a separate establishment. As has been pointed out, the amending Act has very much expanded the meaning of "munitions work." The amending Act has also included establishments under the control of any Government Department. The

1915 Act, s. 4, p. 62.

1915 Act, s. 4 (6), p. 66.

1916 Act, s. 1, p. 63.

EFFECT OF A CONTROL ORDER

is that both employer and workers come under the

direction of the Minister of Munitions, who may make orders with respect to the general ordering of the work, failing to comply with which orders is an offence punishable by fine up to £3. The Minister of Munitions has exercised his power by making a disciplinary order, which is set forth in an appendix hereto.

1915 Act, s. 4
(5), p. 65.

P. 148.

1915 Act, ss.
4 (3), 14 (1)
(c), pp. 64, 77.

The control order also has the effect of suspending "any rule, practice, or custom" tending to restrict production or employment; and to induce or attempt to induce any person to comply with such rules, practice, or custom is an offence punishable by fine up to £50.

For the purpose of carrying out the provisions of the Act relating to controlled establishments, the

OWNERS MUST FURNISH INFORMATION

to the Minister of Munitions, or to any other Government Department with whom the Minister of Munitions may arrange for the collection of information. The matters in regard to which the Minister may require information include the numbers and classes of **workers**; the numbers and classes of **machines**; the **nature of work** performed by them; the **cost of production** of articles produced or dealt with in the establishment; the **cost of materials** used in production; the **persons supplying materials**; and generally "any other matters with respect to which the Minister may desire information for the purpose of his powers and duties." Of course, much of this information may be confidential, and so heavy punishment—imprisonment up to two years or a fine, or both imprisonment and a fine—may be imposed upon **any person** who, except as authorised by the Minister of Munitions, "**discloses or makes use of any information**" thus supplied to the Minister.

1915 Act, s. 4
(6), p. 66.

1915 Act, s.
11, p. 74.

1915 Act, s.
11, p. 74.

1916 Act, s.
16, p. 74.

1915 Act, s.
11 (1) (d), p.
74.

1915 Act, s.
11, p. 74.

1916 Act, s.
16 (2), p. 74.

For obtaining the necessary information the Minister of Munitions may appoint

INQUIRY INSPECTORS,

1915 Act, s. 11, p. 74.

who may enter a controlled establishment at all reasonable times to obtain information, or to make "**examination and inquiry**" as to whether it is desirable for the Minister to exercise his powers; and any person who obstructs the inspector in the exercise of his duty, or who fails to produce documents, or refuses to give information, is guilty of an offence, and may be fined up to £10. Every

1916 Act, s. 17 (1) (2), p. 75.

INSPECTOR MUST SHOW HIS WARRANT

for requesting admission to an establishment. He is required to carry his certificate of appointment, and if required he is bound to produce it.

1916 Act, s. 17 (3), p. 75.

If the Minister of Munitions revokes an order in regard to a controlled establishment, which order "has not been in operation for more than three months, and was made under a misapprehension," he may in the revoking order direct that the revoked order shall be treated as if it had never had effect.

1916 Act, s. 24, p. 66.

When the making of any place a controlled establishment has the effect of changing the conditions which previously prevailed, a record must be kept of the nature of the changes, and this record "shall be open for inspection by the authorised representative of the Government."

1915 Act, Sch. II., s. 6, p. 85.

When practicable, notice is also to be given to the workers of changes resulting from the place becoming a controlled establishment, "and opportunity for local consultation with workmen or their representatives shall be given if desired."

1915 Act, Sch. II., s. 7, p. 85.

The Act allows

NO APPEAL AGAINST A CONTROL ORDER.

1916 Act, s. 18 (3), p. 79.

The right of appeal introduced by the amending Act applies only to decisions of munitions tribunals. Nor do the arbitration provisions of the Act cover an order making a place a controlled establishment. What establishments should be controlled, and when a controlling order should be made, are matters which the Act appears to leave absolutely to the discretion of the Minister of Munitions. If he considers it expedient to make a controlling order, the owner of the establishment seems to have no option to refuse to accept the order. The owner must comply with the order, and that notwithstanding that his establishment may be governed by "any Act, order, or deed."

1915 Act, s. 4 (6), p. 66.

Amongst other matters which the Minister of Munitions may take cognisance of, in an establishment where munitions work is being done, is the

1915 Act, s. 8 (1) (2), p. 72.

WEARING OF BADGES,

Rules, p. 171.

or other distinctive marks, by persons engaged on war work. He may make rules as to the issue, return, use, or misuse of badges; and persons contravening such rules are guilty of an offence, and liable to be fined up to £50. Besides the Munitions Act penalty, any unauthorised person using a munitions worker's badge is liable to prosecution under the Defence of the Realm Regulations.

Def. of Realm Reg., 41 (a).

STATUTORY OFFENCES.

The Act creates many offences, some of which can only be committed by employers, some only by workers,

and some by either, or both. The statutory

OFFENCES BY AN EMPLOYER

are:—

- (1) Failing to comply with, or acting in contra-
vention of, an arbitration award. **Penalty**
—A fine not exceeding £5 for each man in
respect of whom the failure or contravention
takes place, for each day or part of a day
during which he fails to comply with, or
contravenes, the award. 1915 Act, s. 1
(4), p. 60; s.
14 (1)(a), p.
76.
- (2) Taking part in a lockout. **Penalty**—A fine 1915 Act, s. 2
(1), p. 61; s.
14 (1)(b), p.
76.
not exceeding £5, in respect of each man
locked out, for each day or part of a day the
lockout continues.
- (3) Dismissing without reasonable cause a work-
man in his employment who enters into the 1915 Act, s. 6
(1), p. 67.
1916 Act, s. 3
(1), p. 68.
statutory undertaking with the Minister
of Munitions (to work in any controlled
establishment) within six weeks of the date
of the undertaking. **Penalty**—A fine not
exceeding £5.
- (4) Failure to comply with an undertaking 1915 Act, s.
6, p. 67.

1916 Act, s. 4,
p. 68.
which an employer has entered into with
the Minister of Munitions as to the class
of work upon which a workman assigned
to a controlled establishment (including a
soldier temporarily released from service
for employment on munitions work) is to be
employed. **Penalty**—A fine not exceed-
ing £5.
- (5) The employer, or a contractor, or sub-contrac-
tor, making a change in the rate of wages in 1915 Act, s. 4
(2), p. 63.
a controlled establishment without first

submitting the proposal for change to the Minister of Munitions; or making the change when the consent of the Minister has been withheld. **Penalty**—A fine not exceeding £50.

1915 Act, s. 4
(4), p. 64;
Sch. II., p.
84.

Sch. II., s. 1.

Sch. II., s. 2.

Sch. III., s. 3.

Sch. II., s. 4.

Sch. II., s. 5.

Sch. II., s. 6.

- (6) The owner of a controlled establishment, or any contractor or sub-contractor, breaking or attempting to break, the undertaking expressed in Schedule II. of the Act [which undertaking is (a) that any departure from pre-war practice shall be only for the period of the war; (b) that no change in practice shall prejudice the position of workmen or their trade unions as regards resumption after the war of pre-war rules and customs; (c) that in after-war readjustment of staff in a controlled establishment priority of employment be given to workmen who have served with the colours or were employed in the establishment when it became controlled; (d) that where the custom of a shop is changed by dilution of labour the usual time and piece rates of wages of the district will be paid; (e) that dilution of labour shall not adversely affect the rates customarily paid for the job, and that, where men who ordinarily do the job are adversely affected, the necessary readjustments shall be made to maintain their previous earnings; (f) that a record be kept of the nature of the departure from the conditions prevailing when the establishment became controlled; (g) that, where practicable, workmen get notice of changes

- of working conditions consequent upon the establishment becoming controlled, and that if desired opportunity be given for local consultation with workmen or their representatives; (*h*) that differences with regard to wages or conditions of employment be settled by arbitration without stoppage of work; (*i*) that (except as regards (*c*) *supra*) the undertaking expressed in Schedule II. shall not prejudice the position of employers or employed after the war.] Sch. II., s. 7.
- Penalty**—A fine not exceeding £50. Sch. II., s. 8.
- (7) Failure to comply with regulations of the Minister of Munitions in regard to the general ordering of the work in a controlled establishment. **Penalty**—A fine not exceeding £3. 1915 Act, s. 4 (5), p. 65; s. 14 (1) (d), p. 77.
- (8) Dissuading, or attempting to dissuade, a workman in his employment from entering into the statutory undertaking with the Minister of Munitions (to work at any controlled establishment to which he may be assigned). **Penalty**—A fine not exceeding £50. 1915 Act, s. 6 (2), p. 68; s. 14 (1) (e), p. 77.
- (9) Retaining, or offering to retain, a workman in his employment, after the Minister of Munitions has notified that the man is to work at some other establishment. **Penalty**—A fine not exceeding £50. 1915 Act, s. 6 (2), p. 68; s. 14 (1) (e), p. 77.
- (10) Giving employment within six weeks to a workman without his producing a clearance certificate from his last employer. **Penalty**—A fine not exceeding £50. 1915 Act, s. 7, p. 69. (14) (1) (e), p. 77.

1916 Act, s. 5
(2), p. 69.

- (11) Dismissing a workman and refusing to give a clearance certificate without good reason. **Penalty**—Payment to the workman of a sum not exceeding £5.

1916 Act, s.
5 (6), p. 71.

- (12) Breach of any rules made by the Minister of Munitions in regard to clearance certificates. **Penalty**—A fine not exceeding £5.

1916 Act, s. 6
(2), p. 72.

- (13) Failure of the owner of an establishment to which section 7 has been applied, or a contractor or sub-contractor, to comply with directions given by the Minister of Munitions in regard to the employment of female workers. **Penalty**—A fine not exceeding £5 per worker per day.

1915 Act, s. 4
(5), p. 65.

1916 Act, s. 7,
p. 65.

- (14) Failure of the owner of a controlled establishment, or a contractor, or sub-contractor, to comply with directions by the Minister of Munitions in regard to semi-skilled or unskilled labour. **Penalty**—A fine not exceeding £5 per worker per day.

1915 and 1916
Acts, s. 12,
p. 75.

- (15) Granting a false clearance certificate, or giving false information, to the Minister of Munitions, or any other Government Department with whom the Minister of Munitions may arrange for the collection of information, or making any false statement or representation for the purpose of evading any provision of the Act; or in any proceedings before a munitions tribunal or arbitration tribunal or referees; or to the Minister of Munitions or any officer of his, for the purpose of obtaining or retaining the services

- of a workman. **Penalty**—A fine not exceeding £50, or imprisonment not exceeding three months.
- (16) Obstructing in the exercise of his duty an inspector appointed by the Minister of Munitions. **Penalty**—A fine not exceeding £10. 1916 Act, s. 17 (2), p. 75.
- (17) Failure in a controlled establishment to comply with a reasonable requirement of Minister of Munitions. **Penalty**—A fine not exceeding £50. 1915 Act, s. 4 (6), p. 66; s. 14 (1) (e), p. 77.
- (18) Failure of the owner of "any establishment in which persons are employed" to give the Minister of Munitions information as to number of workers, machines, &c. **Penalty**—A fine not exceeding £50. 1915 Act, s. 11, p. 74; s. 14 (1) (e), p. 77.
- (19) [Where before the war union labour was exclusively employed in a controlled establishment, and non-union labour is introduced during the war into any class of work, the owner is deemed to have undertaken that such introduction is only for the period of the war.] Breaking or attempting to break this undertaking. **Penalty**—A fine not exceeding £50. 1915 Act, s. 4 (4), p. 64. 1916 Act, s. 15, p. 64.
- (20) Inducing or attempting to induce any person in a controlled establishment to comply with any rule, practice, or custom tending to restrict production or employment. **Penalty**—A fine not exceeding £50. 1915 Act, s. 4 (3), p. 64; s. 14 (1) (e), p. 77.
- (21) Failing to comply with the rules as to the issue of badges. **Penalty**—A fine not exceeding £50. 1915 Act, s. 8, p. 72; s. 14 (1) (e), p. 77.

- 1916 Act,
s. 16, p. 74.
- (22) Disclosing or making use of information given for the use of the Minister of Munitions. **Penalty**—Imprisonment, with or without hard labour, up to two years; or a fine; or both imprisonment and a fine.
- 1916 Act,
s. 18 (4), p. 80.
- (23) If a company is guilty of any offence under the Act, every director, manager, secretary, or other officer of the company who was knowingly a party to the offence is liable also to the like penalty as the company.

The statutory

OFFENCES BY A WORKMAN

are fewer in number, but some of them involve serious penalties. A workman, as well as an employer, may be liable for the following offences:—

- 1915 Act, s. 1
(4), p. 60;
s. 14 (1) (a),
p. 77.
- (1) Failing to comply with an arbitration award. **Penalty**—A fine not exceeding £5 per day or part of a day during which his failure to comply continues.
- 1915 Act, s. 4
(5) (6), p. 65.
- (2) Failing to comply with orders of the Minister of Munitions relating to work in a controlled establishment. **Penalty**—A fine not exceeding £3.
- 1916 Act, s. 5
(6), p. 71.
- (3) Breach of rules made by the Minister of Munitions in regard to leaving certificates. **Penalty**—A fine not exceeding £5.
- 1915 Act, s. 4
(3), p. 64;
s. 14 (1) (e),
p. 77.
- (4) In a controlled establishment, inducing or attempting to induce any person to comply with any rule, practice, or custom not having the force of law which tends to

restrict production or employment.

Penalty—A fine not exceeding £50.

- (5) Failing to comply with rules made by the Minister of Munitions as to the wearing of badges. **Penalty**—A fine not exceeding £50. 1915 Act, s. 8, p. 73; s. 14 (1) (e), p. 77.
- (6) Making any false statement or representation for the purpose of evading the Act; or in proceedings before a munitions or arbitration tribunal; or to an officer of the Minister of Munitions, for the purpose of obtaining or retaining employment. **Penalty**—A fine not exceeding £50, or imprisonment not exceeding three months. 1915 Act, s. 12, p. 75.
1916 Act, s. 14, p. 75.
- (7) Disclosing or making use of information given for the use of the Minister of Munitions. **Penalty**—Imprisonment up to two years; or a fine; or both fine and imprisonment. 1915 Act, s. 11, p. 74.
1916 Act, s. 16 (2), p. 74.
- Besides these, there are the following **offences personal to the workman**:—
- (8) Taking part in a strike. **Penalty**—A fine not exceeding £5 for each day or part of a day during which the strike continues. 1915 Act, s. 2 (1), p. 61; s. 14 (1) (c), p. 77.
- (9) Failing to comply with undertaking made with Minister of Munitions that he will work at any controlled establishment to which he may be assigned. **Penalty**—A fine not exceeding £3. 1915 Act, s. 6 (1), p. 67; s. 14 (1) (d), p. 77.
- (10) Tampering with a leaving certificate, or personating the holder of a certificate, or giving any other person possession of his 1915 Act, s. 12, p. 75.

certificate. **Penalty**—Imprisonment up to three months, or a fine not exceeding £50.

With the exception of the offences of granting a false certificate, or giving false information, tampering with a clearance certificate, &c., and disclosing information obtained for the use of the Minister of Munitions, which may be prosecuted before the ordinary Criminal Courts of the land, the Act does not sanction any

LEGAL PROCEEDINGS

before the ordinary law Courts. Offences are dealt with, and orders enforced, and complaints heard and determined, by special tribunals created by the Act. A

1915 Act, s.
15, p. 77.

GENERAL MUNITIONS TRIBUNAL

has "jurisdiction to deal with all offences and matters under this Act," except the three classes of offences before referred to, in which imprisonment is competent. A munitions tribunal has

1915 Act, s.
15 (1), p. 77.

NO POWER TO IMPRISON.

Workmen's penalties are recoverable by civil diligence under the provisions of the Summary Jurisdiction Acts; or a tribunal may order a fine imposed upon a workman to be deducted from wages, in which event the order will embody authority to any person paying wages to such workman to make such deduction. A

1915 Act, s.
15 (3), p. 78;
(4), p. 80.

1915 Act, s.
15 (4), p. 80.

LOCAL MUNITIONS TRIBUNAL

has jurisdiction to deal with offences the maximum fine for which does not exceed £5, and with matters which arise in connection with the dismissal or dis-

1915 Act, s.
15, p. 77.
1916 Act, s.
18 (1), p. 78.

charge of workers, including applications for leaving certificates and for compensation. The

CONSTITUTION OF THE TRIBUNAL

is similar, for general or local. In either case the Court consists of a chairman sitting with two assessors, one drawn from a panel of employers or their representatives, and the other from a panel of workmen or their representatives. The chairman is directed to consult with the assessors before giving his decision, and where the assessors are agreed the chairman is to give effect to their opinion in his decision, "except as respects questions which appear to the chairman to be questions of law." 1915 Act, s. 15 (1), p. 77.

The original Act did not provide for review of a decision of a munitions tribunal; but the amending Act gives a

RIGHT OF APPEAL

to such judge of the High Court (in Scotland judge of the Court of Session) as may be appointed by the Lord Chancellor (in Scotland by the Lord President) for the purpose. Appeal may be taken against the decision of either a general or a local tribunal, "on any ground which involves a question of law or a question of mixed law and fact," or on any other ground that may be sanctioned by procedure rules. 1916 Act, s. 18 (3), p. 79.

What is a

See Rules,
Eng., p. 118
Scot., p. 136.

QUESTION OF MIXED LAW AND FACT

is not always clear. Upon a question of pure law, either the employer or the workman has the right to appeal. If the question is one of mixed law and fact, leave to appeal should be asked from the chairman Rules, s. 3 (1), pp. 119, 136.

Rules, s. 3
(1), pp. 119,
136.

Pp. 121, 138.

Pp. 124, 142.

P. 218.

P. 216.

P. 214.

of the local tribunal. Such leave is in practice granted when asked, leaving the appeal judge to decide the competency of the appeal. The appeal judge has power to dismiss any case if the notice of appeal discloses "**no substantial ground of appeal.**"

The appeal judge has power to take additional evidence; but any person who fails to lead evidence which he might have led before the tribunal will not be permitted to lead it before the appeal judge (*Scottish Iron and Steel Company v. Hands*, 1916, Scot. App. Rep., p. 1; *Ritchie, Graham & Milne v. Dougan & Gaw*, 1916, Scot. App. Rep., p. 8; *Inglis & Co., Limited v. Walker*, 1916, Scot. App. Rep., p. 10).

It is to be noted as regards certain of the offences that they may be committed by a

CONTRACTOR OR SUB-CONTRACTOR.

The Act does not define either of these terms, but in many industrial establishments it is common for work to be done upon the contract system, and also for parts of work to be given out to sub-contractors. At the present time probably much work, or part work, is being done in this way. It should be kept in view, therefore, by all who are engaged in war work, either directly or indirectly, that, as regards some offences, the scope of such words as "employer" or "owner of a controlled establishment" may possibly be wider than their ordinary meaning might suggest.

There is another provision of the Act which should be regarded by all who think that they have occasion to make complaint to a munitions tribunal. That is, that the tribunal may award

COSTS IN VEXATIOUS PROCEEDINGS

1916 Act, s.
22 (1), p. 80.

to the person against whom the complaint is laid, to cover his expenses, trouble, and loss of time.

RULES AND REGULATIONS

(which may be issued without the formalities of notice and publication which is required by the Rules Publication Act, 1893) may be made as occasion requires for the purpose of carrying out the Act. As the Documentary Evidence Acts, 1868 and 1882, are made applicable to the Act, an official copy of orders, rules, and regulations made under the Act is sufficient *prima facie* evidence of their terms.

56 & 57 Vict.
c. 66.1916 Act, s.
25, p. 81.1915 Act, s.
18, p. 81.

The duties which the Act lays upon the Department of the Ministry of Munitions are multifarious. But the

MINISTER MAY DELEGATE HIS POWERS

1916 Act, s.
20, p. 83.

to any other Government Department, in which event the officers of that Department shall possess the same powers as the Act confers upon the Minister of Munitions and his officers.

The

PURPOSE OF THE ACT

as now amended is to protect all interests, and to remove causes of friction, whether between employers and workmen, or between classes of workers. It is perhaps hardly to be expected that either employers or workmen should regard very cordially any legislation which calls upon employers to forego the enhanced profits which the exceptional economic situation might confer upon them, and which suspends for the time being certain long-cherished privileges by which workmen set great store. But, however difficult

it may be for the industrial world to grasp legislation which temporarily upsets long-accepted notions of freedom of contract, some form of sacrifice is the lot of all classes in the present exceptional times, and the temporary abandonment of cherished ideals is the form of sacrifice which, in the national interest, the Munitions Act requires of the industrial community. If the Act curtails individual liberty of action, as it does, it at any rate treats employers and workmen alike in that respect, and, although the Act creates many novel offences, if all interested will make themselves familiar with the provisions of the Act, and endeavour to live up to the spirit of it, occasion need not very frequently arise for enforcing its penal clauses.

It is a common delusion that munitions workers alone have any interest in the Munitions Acts. But in some important matters the

ACT REACHES ALL CLASSES

of the community, whether engaged in munitions work or not. "**Any person**" may incur the serious penalty which the Act attaches to the offence of employing a worker who does not produce a leaving certificate from his or her last employer; or to the offence of tampering with a leaving certificate or personating the holder of it; or to the offence of obstructing an inspector of the Ministry of Munitions in the discharge of his duty; or the offence of making false representations for the purpose of evading the Act, or in any proceedings under the Act; or the offence of disclosing information to others which had been given only for the use of the Minister of Munitions; and one of the most serious offences of all—attempting to enforce pre-war practices or customs

1915 Act, s. 7,
p. 69; s. 14
(1) (e), p. 77.

1915 Act, s.
12, p. 75.

1916 Act, s.
17 (2), p. 75.

1915 Act, s.
12, p. 75.

1916 Act, s.
16 (2), p. 74.

tending to restrict production or employment—may also be committed by “**any person.**” There is also a very sweeping general clause applicable to offences by limited companies, which makes liable to the same penalty as the company every director, manager, secretary, or other officer of the company who was cognisant of the offence.

1915 Act, s. 4,
(3), p. 64.

1916 Act, s.
18 (4), p. 79.

It should be kept in mind also that

DEFENCE OF THE REALM OFFENCES

may be committed by “any person,” and that the regulations define a “**munitions offence**” as meaning “an offence in contravention of any order made or any directions, regulations, or restrictions given or issued by the Minister of Munitions under these regulations; or an offence against these regulations **in respect of any matter within the scope of the powers and duties for the time being assigned to the Minister of Munitions.**”

Def. of Realm
Reg. 56 (14).

These Defence of the Realm Regulations empower the Minister of Munitions to take possession of unoccupied premises for housing munitions workers; to take possession of war material, food, forage, and stores, and of articles required for or in connection with the production thereof; to requisition the output of factories manufacturing arms, ammunition, &c.; to prohibit exhibitions prejudicial to the production of war material; to take the use of a factory or workshop or plant; to direct or restrict work in any factory, or to remove plant; to require Government contractors to use registered designs; to close licensed premises; to prohibit or regulate building work; to prohibit any persons entering a safeguarded factory without a permit; to prohibit dealings in war

Def. of Realm
Reg. 2 (a).

Reg. 2 (b).

Reg. 7.

Reg. 8.

Reg. 8 (a).

Reg. 8 (c).

Reg. 8 (e).

Reg. 10.

Reg. 29 (a).

- Reg. 30 (a). material; to prohibit the unauthorised use of naval,
Reg. 41. military, or police uniforms, decorations, medals,
or badges.

Reg. 56 (14). Contravention of orders made by the Minister of Munitions in regard to such matters is not prosecuted for under the Munitions Acts, but as an offence against the Defence of the Realm Regulations. The Minister of Munitions may report any case to the Crown officials, who may direct it to be tried by a Court of summary jurisdiction, or by a civil Court with a jury, or, with consent of the Admiralty or Army Council, by court-martial, but the accused person has an option to demand a civil Court trial. The decision of the Minister of Munitions is conclusive as to whether any offence is a "munitions offence."

APPENDIX I.

TEXT OF THE MUNITIONS ACTS.

CONSECUTIVELY ARRANGED.

[Original enactments in black type, amendments in red.]

TABLE OF SECTIONS OF THE ACTS.

PRINCIPAL ACT, 1915.		AMENDING ACT, 1916.	
SECTION	PAGE	SECTION	PAGE
1 (1) (2), - - - -	59	1, - - - -	63
1 (3) (4), - - - -	60	2, - - - -	60 margin
2 (1) (2), - - - -	61	3 (1) (2) (3), - - - -	68
3, - - - -	61	4, - - - -	68
4, - - - -	62	5 (1), - - - -	69 margin
4 (1) (2), - - - -	63	5 (2), - - - -	69
4 (3) (4), - - - -	64	5 (3), - - - -	70
4 (5) (6), - - - -	65	5 (4) (5) (6), - - - -	71
5 (1) (2) (3), - - - -	66	5 (7), - - - -	72
5 (4), - - - -	67	6 (1) (2) (3), - - - -	72
6 (1), - - - -	67	7, - - - -	65
6 (2), - - - -	68	8 (1) (2) (3), - - - -	60
7 (1) (2) (3), - - - -	69	9 (1), - - - -	82
8 (1), - - - -	72	9 (2), - - - -	62
8 (2), 9, 10, - - - -	73	9 (3), - - - -	83
11 (1) (2), - - - -	74	10, - - - -	73 margin
12, - - - -	75	11, - - - -	63 margin
13, - - - -	76	12, - - - -	83
14 (1), - - - -	76	13, - - - -	80 margin
14 (2), - - - -	77	14, - - - -	75 margin
15 (1), - - - -	77	15, - - - -	64
15 (2) (3), - - - -	78	16 (1) (2), - - - -	74
15 (4), - - - -	80	17 (1) (2) (3), - - - -	75
16, - - - -	80	18 (1) (2), - - - -	78
17, - - - -	80	18 (3) (4), - - - -	79
18, 19, - - - -	81	18 (5), - - - -	78 margin
20 (1) (2), - - - -	83	19, - - - -	67 margin
Schedule I., - - - -	84	20, - - - -	83
Schedule II., - - - -	84	21, - - - -	61
		22 (1), - - - -	80
		22 (2), - - - -	67
		23, - - - -	61
		24, - - - -	66
		25, - - - -	81
		26, - - - -	83 margin
		27, - - - -	83

NOTE.—Enacting sections of 1916 Act are printed in full. Sections merely omitting or inserting words are noted on margin.

APPENDIX I.

TEXT OF THE MUNITIONS OF WAR ACT, 1915, AS AMENDED BY THE MUNITIONS OF WAR (AMENDMENT) ACT, 1916.

Note.—The original 1915 Act is printed in black;
the 1916 amendments in red.

An Act to make provision for furthering the efficient manufacture, transport, and supply of Munitions for the present war; and for purposes incidental thereto.

A.D. 1915.

[2nd July, 1915.]

[Amended 27th January, 1916.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

1.—(1) If any difference exists or is apprehended between any employer and persons employed, or between any two or more classes of persons employed, and the difference is one to which this Part of this Act applies, that difference, if not determined by the parties directly concerned or their representatives or under existing agreements, may be reported to the Board of Trade, by or on behalf of either party to the difference, and the decision of the Board of Trade as to whether a difference has been so reported to them or not, and as to the time at which a difference has been so reported, shall be conclusive for all purposes.

Settlement
of labour
differences.

(2) The Board of Trade shall consider any difference so reported and take any steps which seem to them expedient to promote a settlement of the difference, and, in any case

[1916 Act, s.
2].

in which they think fit, may, and in the case where the difference is a difference between an employer and persons employed which appears to the Board of Trade a *bona fide* difference, and which the Board have failed to settle by such steps as aforesaid, shall, within twenty-one days from the date of the report refer the matter for settlement either in accordance with the provisions of the First Schedule to this Act or, if in their opinion suitable means for settlement already exist in pursuance of any agreement between employers and persons employed, for settlement in accordance with those means.

(3) Where a matter is referred under the last foregoing subsection for settlement otherwise than in accordance with the provisions of the First Schedule to this Act, and the settlement is in the opinion of the Board of Trade unduly delayed, the Board may annul the reference and substitute therefor a reference in accordance with the provisions of the said Schedule.

(4) The award on any such settlement shall be binding both on employers and employed and may be retrospective; and if any employer, or person employed, thereafter acts in contravention of, or fails to comply with, the award, he shall be guilty of an offence under this Act.

Establishment
of special
arbitration
tribunals.

Am. Act 8.—(1) The Minister of Munitions may constitute special arbitration tribunals to deal with differences reported under Part I. of the principal Act which relate to matters on which the Minister of Munitions has given or is empowered to give directions under the last two preceding sections, and the Board of Trade may refer any such difference for settlement to such tribunal in lieu of referring it for settlement in accordance with the First Schedule to the principal Act.

(2) The Minister of Munitions may also refer to a special arbitration tribunal so constituted, for advice, any question as to what directions are to be given by him under the said sections.

(3) The tribunal to which matters and questions relating

to female workers are to be referred under this section shall include one or more women.

Note.—The two sections here referred to are section 6 of the Amendment Act (relating to female workers) and section 7 (relating to semi-skilled and unskilled workers).

P. 72.

P. 65.

Am. Act **23**. The Arbitration Act, 1889, shall not apply to any reference to any referee or board of referees under the principal Act or this Act or the rules made thereunder.

Exclusion of Arbitration Act, 1889.

2.—(1) An employer shall not declare, cause or take part in a lock-out, and a person employed shall not take part in a strike, in connexion with any difference to which this Part of this Act applies, unless the difference has been reported to the Board of Trade, and twenty-one days have elapsed since the date of the report, and the difference has not during that time been referred by the Board of Trade for settlement in accordance with this Act.

Prohibition of lock-outs and strikes in certain cases.

See Cases,
p. 223.

(2) If any person acts in contravention of this section, he shall be guilty of an offence under this Act.

Am. Act **21**. For the purposes of proceedings under section two of the principal Act, a certificate of the Board of Trade purporting to be signed by the President or a secretary or assistant secretary of the Board of Trade, or by a person authorised for the purpose by the President that a difference to which Part I. of the principal Act applies has or has not been reported to the Board, and, in cases where such a difference has been reported, as to the date on which it was reported, shall be admissible as evidence of the facts therein stated.

Admissibility in evidence of certificates by Board of Trade.

3. The differences to which this Part of this Act applies are differences as to rates of wages, hours of work, or otherwise as to terms or conditions of or affecting employment on or in connection with munitions work; and also any differences as to rates of wages, hours of work, or otherwise as to terms or conditions of or affecting employment on or in connection with any other work of any description, if this

Differences to which Part I. applies.

See Cases,
p. 223.

Part of this Act is applied to such a difference by His Majesty by Proclamation on the ground that in the opinion of His Majesty the existence or continuance of the difference is directly or indirectly prejudicial to the manufacture, transport, or supply of Munitions of War.

Am. Act 9.—(2) In section 3 of the principal Act there shall be added after the words “affecting employment on” in both places where those words occur the words “or in connection with,” and in the same section the words “the manufacture or repair of arms, ammunition, ships, vehicles, aircraft, or any other articles required for use in war, or of the metals, machines, or tools required for that manufacture or repair in this Act referred to as” shall be repealed.

This Part of this Act may be so applied to such a difference at any time, whether a lock-out or strike is in existence in connexion with the difference to which it is applied or not :

Provided that if in the case of any industry the Minister of Munitions is satisfied that effective means exist to secure the settlement without stoppage of any difference arising on work other than on munitions work, no proclamation shall be made under this section with respect to any such difference.

When this Part of this Act is applied to any difference concerning work other than munitions work the conditions of labour and the remuneration thereof prevailing before the difference arose shall be continued until the said difference is settled in accordance with the provisions of this Part of this Act.

PART II.

4. If the Minister of Munitions considers it expedient for the purpose of the successful prosecution of the war that any establishment in which munitions work is carried on should be subject to the special provisions as to limitation of employers' profits and control of persons employed and other matters contained in this section, he may make an order declaring that establishment to be a controlled establishment, and on such order being made the following provisions shall apply thereto:—

Controlled
establish-
ments.

Am. Act 1. The Minister of Munitions may by order declare any establishment or establishments belonging to or under the control of His Majesty or any Government Department in which munitions work is carried on to be a controlled establishment or controlled establishments as the case may be, and thereupon the provisions of the Munitions of War Act, 1915 (herein-after referred to as "the principal Act"), and this Act relating to controlled establishments shall apply to such an establishment or establishments subject to such modifications and exceptions necessary to adapt those provisions to such an establishment or establishments as may be specified in such order.

Power to declare Government factories, &c., controlled establishments.

5 & 6 Geo. 5. c. 54.

(1) Any excess of the net profits of the controlled establishment over the amount divisible under this Act, as ascertained in accordance with the provisions of this Act, shall be paid into the Exchequer.

See Rules, p. 89.

(2) Any proposal for any change in the rate of wages, salary, or other emoluments of any class of persons employed in the establishment, or of any persons engaged in the management or the direction of the establishment (other than a change for giving effect to any Government conditions as to fair wages or to any agreement between the owner of the establishment and the workmen which was made before the twenty-third day of June, nineteen hundred and fifteen), or to any agreement existing before the establishment became a controlled establishment between the owner of the establishment and an employee with regard to any periodical increase of remuneration, shall be submitted to the Minister of Munitions, who may withhold his consent within fourteen days of the date of the submission :

[1916 Act. s. 11].

Provided that if the Minister of Munitions so directs, or if the Minister's consent is withheld and the persons proposing the change so require, the matter shall be referred for settlement in accordance with the provisions of the First Schedule to this Act, and the consent of the arbitration tribunal, if

given, shall in that case have the same effect as the consent of the Minister of Munitions.

If the owner of the establishment or any contractor or sub-contractor employing labour therein makes any such change, or attempts to make any such change, without submitting the proposal for the change to the Minister of Munitions or when the consent of the Minister has been withheld, he shall be guilty of an offence under this Act.

- (3) Any rule, practice, or custom not having the force of law which tends to restrict production or employment shall be suspended in the establishment, and if any person induces or attempts to induce any other person (whether any particular person or generally) to comply, or continue to comply, with such a rule, practice, or custom, that person shall be guilty of an offence under this Act.

If any question arises whether any rule, practice, or custom is a rule, practice, or custom which tends to restrict production or employment, that question shall be referred to the Board of Trade, and the Board of Trade shall either determine the question themselves or, if they think it expedient or either party requires it, refer the question for settlement in accordance with the provisions contained in the First Schedule to this Act. The decision of the Board of Trade or arbitration tribunal, as the case may be, shall be conclusive for all purposes.

- (4) The owner of the establishment shall be deemed to have entered into an undertaking to carry out the provisions set out in the Second Schedule to this Act, and any owner or contractor or sub-contractor who breaks or attempts to break such an undertaking shall be guilty of an offence under this Act.

See Cases,
p. 224.

Restriction
on change
from union
to non-union
labour.

Am. Act 15. Where non-union labour is introduced during the war into any class of work in a controlled establishment in which it was the practice prior to the war to employ union

labour exclusively the owner of the establishment shall be deemed to have undertaken that such introduction shall only be for the period of the war, and if he breaks or attempts to break such an undertaking he shall be guilty of an offence under the principal Act and liable to a fine not exceeding fifty pounds; but subject as aforesaid such introduction shall not be deemed to be a change of working conditions.

- (5) The employer and every person employed in the establishment shall comply with any regulations made applicable to that establishment by the Minister of Munitions with respect to the general ordering of the work in the establishment with a view to attaining and maintaining a proper standard of efficiency and with respect to the due observance of the rules of the establishment.

See Order,
p. 147.

Am. Act 7. The Minister of Munitions shall have power by order to give directions as to the rate of wages, hours of labour or conditions of employment of semi-skilled and unskilled men employed in any controlled establishment on munitions work being work of a class which, prior to the war, was customarily undertaken by skilled labour, or as to the time rates for the manufacture of complete shell and fuses and cartridge cases in any controlled establishment in which such manufacture was not customary prior to the war; and any direction so given shall be binding on the owner of the establishment, and any contractor or sub-contractor employing labour therein, and the workers to whom the directions relate, and any contravention thereof or non-compliance therewith shall be punishable, in like manner as if the order in which the direction is contained was an award made in settlement of a difference under Part I. of the principal Act.

Rates of wages of semi-skilled and unskilled labour in controlled establishments.

See Order,
p. 166.

If the employer or any person so employed acts in contravention of or fails to comply with any such regulation, that employer or person shall be guilty of an offence under this Act.

- (6) The owners of an establishment shall have power, notwithstanding anything in any Act, Order, or

deed under which they are governed, to do all things necessary for compliance with any provisions of this section, and any owner of an establishment shall comply with any reasonable requirements of the Minister of Munitions as to information or otherwise made for the purposes of this section, and, if he fails to do so, shall be guilty of an offence under this Act.

Where in any establishment munitions work is carried on in some part of the establishment but not in other parts, the Minister of Munitions may, if he considers that it is practicable to do so, treat any part of the establishment in which munitions work is not carried on as a separate establishment, and the provisions of this Act shall take effect accordingly.

Effect of
revocation
of orders.

Am. Act 24. Where the Minister of Munitions makes an order revoking any order previously made by him under section four of the principal Act, the order so revoked shall, if that order has not been in operation for more than three months and was made under a misapprehension and the revoking order so directs, be treated for all or any of the purposes thereof as if it had never had effect.

Supplemen-
tary provi-
sions as to
the limita-
tion of the
profits of a
controlled
establish-
ment.

See Rules,
pp. 90-91.

5.—(1) The net profits of a controlled establishment shall be ascertained in accordance with the provisions of this section and rules made thereunder and the amount of profits divisible under this Act shall be taken to be an amount exceeding by one-fifth the standard amount of profits.

(2) The standard amount of profits for any period shall be taken to be the average of the amount of the net profits for the two financial years of the establishment completed next before the outbreak of the war or a proportionate part thereof.

(3) If in any case it appears or is represented to the Minister of Munitions that the net profits or losses of all or any other establishments belonging to the same owner should be brought into account, or that the average under this

section affords or may afford an unfair standard of comparison or affords no standard of comparison, or that no such average exists, the Minister may, if he thinks just, allow or require those net profits or losses to be brought into account, or substitute for the average such an amount as the standard amount of profits as may be agreed upon with the owner of the establishment.

[1916 Act, s. 19].

The Minister of Munitions may, if he thinks fit, and shall, if the owner of the establishment so requires, refer the matter to be determined by a referee or board of referees appointed or designated by him for the purpose, and the decision of the referee or board shall be conclusive on the matter for all purposes.

Am. Act 22.—(2) Where a referee or board of referees to whom a matter has, under subsection (3) of section five of the principal Act, been referred by the Minister of Munitions on the requirement of the owner of an establishment, considers that the requirement was unreasonable, the referee or board of referees may order that any costs payable by the owner of the establishment shall be paid out of the amount of profits divisible under the principal Act.

(4) The Minister of Munitions may make rules for carrying the provisions of this section into effect, and these rules shall provide for due consideration being given in carrying out the provisions of this section as respects any establishment to any special circumstances such as increase of output, provision of new machinery or plant, alteration of capital or other matters which require special consideration in relation to the particular establishment.

See Rules,
p. 89.

6.—(1) If any workman in accordance with arrangements made by the Minister of Munitions with or on behalf of trade unions enters into an undertaking with the Minister of Munitions that he will work at any controlled establishment to which he may be assigned by the Minister, and be subject to the penalty imposed by this Act if he acts in contravention of or fails to comply with the undertaking, that workman shall if he acts in contravention of or fails to comply with his undertaking be guilty of an offence under this Act.

Voluntary
undertaking
to work for
Minister of
Munitions.

See Cases,
p. 218.

(2) If any employer dissuades or attempts to dissuade a workman in his employment from entering into an undertaking under this section, or retains or offers to retain in his employment any workman who has entered into such an undertaking after he has received notice from the Minister of Munitions that the workman is to work at some other establishment, that employer shall be guilty of an offence under this Act.

See Cases,
p. 218.

Am. Act 3.—(1) Where a workman has entered into an undertaking with the Minister of Munitions under section six of the principal Act, and was at the time of entering into that undertaking in the employment of any employer, then if that employer within the period of six weeks from the date of the undertaking dismisses that workman from his employment he shall be guilty of an offence under the principal Act, and shall be liable to a fine not exceeding five pounds unless he proves that there was reasonable cause for dismissing the workman.

(2) It is hereby declared that where the fulfilment by any workman of any contract is interfered with by the necessity on his part of complying with an undertaking entered into by him under section six of the principal Act that necessity is a good defence to any action or proceedings taken against that workman in respect of the non-fulfilment of the contract so far as it is due to the interference, and he shall be entitled to enter into such an undertaking notwithstanding the existence of such a contract.

(3) Section six of the principal Act shall apply to a workman who had before the passing of the principal Act entered into an undertaking of the nature mentioned in that section in like manner as if the undertaking had been entered into in pursuance of that section.

Offences by
employers
in connection
with munition
workers
assigned to
them.

4. Where a person who has been temporarily released from naval or military service for the purpose of employment on or in connection with munitions work, or a workman who has entered into an undertaking with the Minister of Munitions under section six of the principal Act or to whom

that section is applied by this Act has been assigned to any employer, and that employer has entered into an undertaking with the Minister of Munitions as to the class or description of work on or in connection with which the person or workman so assigned to him is to be employed, then if the employer acts in contravention of or fails to comply with any of the provisions of the undertaking he shall be guilty of an offence under the principal Act, and liable to a fine not exceeding five pounds.

7.—(1) A person shall not give employment to a workman, who has within the last previous six weeks, or such other period as may be provided by Order of the Minister of Munitions as respects any class of establishment, been employed on or in connexion with munitions work in any establishment of a class to which the provisions of this section are applied by Order of the Minister of Munitions, unless he holds a certificate from the employer by whom he was last so employed or from a munitions tribunal that he is free to accept other employment.

Prohibition of the employment of persons who have left work in munition factories.

See Orders,
p. 177.

[1916 Act, s. 5
(1)].

(2) If any workman or his trade union representative complains to a munitions tribunal in accordance with rules made with respect to those tribunals that an employer has unreasonably refused or neglected to issue such a certificate as aforesaid that tribunal may, after examining into the case, if it thinks fit, itself issue such a certificate or order the issue of such a certificate by the employer.

See Cases,
p. 209.

[1916 Act, s. 5
(1)].

Note.—The alternative power to order the employer to grant a certificate is new.

(3) If any person gives employment in contravention of the provisions of this section, he shall be guilty of an offence under this Act.

Am. Act 5.—(2) Where a workman employed on or in connection with munitions work in any establishment of a class to which the provisions of section seven of the principal Act are for the time being applied by an order made thereunder is dismissed or discharged by his employer, the employer shall forthwith

give him such a certificate as aforesaid, and if he fails to do so, a munitions tribunal may, in addition to issuing or ordering the issue to him of such a certificate, order the payment to him by the employer of such sum, not exceeding five pounds, as the tribunal may think fit, unless the tribunal is of opinion that the workman was guilty of misconduct for the purpose of obtaining dismissal or discharge.

See Cases,
p. 225.

This subsection shall apply to a workman who applies for a certificate on the ground that he has for a period of more than two days been given no opportunity of earning wages, or who leaves his employment on account of conduct on the part of the employer, or any agent of the employer, which would justify the immediate termination by the workman of his contract of service, in like manner as if he had been dismissed or discharged by his employer.

See Cases,
p. 225.

(3) Where a contract of service with a workman employed on or in connection with munitions work in any establishment of a class to which the provisions of section seven of the principal Act are for the time being applied by an order made thereunder is terminated by dismissal, and less than one week's notice, or wages in lieu of notice, has or have been given, the employer shall, subject to the provisions of this subsection, within twenty-four hours of giving notice of dismissal to the workman report the matter in such manner as may be prescribed by rules made by the Minister of Munitions, and such rules shall provide for the determination by a Munitions tribunal (in case of difference) of the amount, if any, and not in any case exceeding five pounds, which is to be paid by the employer to the workman in lieu of notice, and for the payment of the sum so determined to the workman, unless the tribunal is of opinion that owing to the discontinuous or temporary nature of the employment or misconduct of the workman the employer had reasonable cause for dismissing the workman without a week's notice :

See Cases,
p. 204.

Provided that nothing in this subsection shall apply to workmen engaged in ship repairing, or to any class of workmen exempted in the prescribed manner on the ground that

the circumstances of their employment were such that the provisions of this subsection ought not to apply to them.

(4) The provisions of section seven of the principal Act which prohibit the giving of employment to workmen in the circumstances mentioned in that section shall not apply so as to prevent the giving of employment to a workman in a controlled establishment to which he has been assigned by the Minister of Munitions in pursuance of section six of the principal Act.

(5) In determining whether the grant of a certificate has been unreasonably refused for the purposes of section seven of the principal Act as amended by this section, a munitions tribunal shall take into consideration the question whether the workman has left or desires to leave his work for the purpose of undertaking any class of work in which his skill or other personal qualifications could be employed with greater advantage to the national interests, and whether the employer has failed to observe the conditions laid down in the fair wages clauses required by resolution of the House of Commons to be inserted in Government contracts, and whether the workman has left or desires to leave his work because he has recently completed a term of apprenticeship or period of learning his trade or occupation and desires to obtain the full standard rate of wages applicable to fully qualified workmen in his trade or occupation.

See Cases,
p. 199.

(6) The Minister of Munitions may make rules for carrying section seven of the principal Act as amended by this section into effect, and in particular may by such rules provide—

See Rules,
p. 101.

- (a) for the issue, form, custody, duration, delivery up, and replacement in case of loss or destruction, of certificates ;
- (b) for the issue of certificates to persons not engaged on or in connection with munitions work ;
- (c) for prohibiting the insertion in a certificate issued by an employer of any matter other than the prescribed particulars ;

and may provide for any breach of such rules being punishable as an offence under the principal Act with a fine not exceeding five pounds.

(7) This section shall not come into operation until such date as may be fixed by the rules made thereunder.

Rates of wages of women employed on munitions work.

See *Orders*, pp. 152-165.

Am. Act 6.—(1) Where female workers are employed on or in connection with munitions work in any establishment of a class to which the provisions of section seven of the principal Act as amended by this Act are for the time being applied by an order made thereunder, the Minister of Munitions shall have power by order to give directions as to the rate of wages, or (subject, so far as the matter is one which is dealt with by the Factory and Workshops Acts, 1901 to 1911, to the concurrence of the Secretary of State) as to hours of labour, or conditions of employment of the female workers so employed.

(2) Any directions given by the Minister of Munitions under this section shall be binding on the owner of the establishment and any contractor or sub-contractor employing labour therein and the female workers to whom the directions relate, and any contravention thereof or non-compliance therewith shall be punishable, in like manner as if the order in which the direction is contained was an award made in settlement of a difference under Part I. of the principal Act.

(3) No direction given under this section shall be deemed to relieve the occupier of any factory or workshop from the obligation to comply with the provisions of the Factory and Workshops Acts, 1901 to 1911, or of any orders or regulations made thereunder, or to affect the liability of any person to be proceeded against for an offence under the Employment of Children Act, 1903, so however that no person be twice punished for the same offence.

Rules as to badges.

See *Appendix VII.*, p. 171.

8.—(1) The Minister of Munitions may make rules authorising the wearing of badges or other distinctive marks by persons engaged on munitions work or other work for war

purposes, and as to the issue and return of any such badges or marks, and may by those rules prohibit the use, wearing or issue of any such badges or of any badges or marks indicating or suggesting that any person is engaged on munitions work or work for war purposes except as authorised by those rules. *Sec Order, p. 171.*

(2) If any person acts in contravention of, or fails to comply with any such rules, he shall be guilty of an offence against this Act.

9. This Part of this Act shall apply to any docks used by the Admiralty for any purposes connected with the war as it applies to establishments in which munitions work is carried on, with the substitution in relation to any such docks or persons employed in any such docks of the Admiralty for the Minister of Munitions. *Application of Part II. to docks used by Admiralty.* **Provided that the power of making an order applying section seven of this Act to any dock shall rest with the Minister of Munitions, and not with the Admiralty.** *1916 Act, s. 10. See Orders, P. 177.*

Note.—This proviso was added to section 9 by section 10 of the Amendment Act. *P. 41.*

PART III.

10. The following paragraph shall be substituted for paragraph (d) set out in subsection (1) of section one of the Defence of the Realm (Amendment) No. 2 Act, 1915, and shall be deemed to have been contained in that Act, namely:— *Amendment of the Defence of the Realm (Amendment) No. 2 Act, 1915, 5 Geo. 5, c. 37.*

(d) to regulate or restrict the carrying on of any work in any factory, workshop, or other premises, or the engagement or employment of any workman or all or any classes of workmen therein, or to remove the plant therefrom with a view to maintaining or increasing the production of munitions in other factories, workshops, or premises, or to regulate and

control the supply of metals and material that may be required for any articles for use in war.

Power to
require infor-
mation from
employers.

11.—(1) The owner of any establishment in which persons are employed shall, if so required by the Minister of Munitions, give to the Minister such information, in such form and in such manner, as the Minister may require as to

- (a) the numbers and classes of persons employed or likely to be employed in the establishment from time to time;
- (b) the numbers and classes of machines at any such establishment;
- (c) the nature of the work on which any such persons are employed, or any such machines are engaged, from time to time;
- (d) any other matters with respect to which the Minister may desire information for the purpose of his powers and duties;

and the Minister may arrange with any other Government department for the collection of any such information.

(2) If the owner of any establishment fails to comply with this section he shall be guilty of an offence under this Act.

Extension
of section
eleven of
principal Act.

Am. Act **16.**—(1) In subsection (1) of section eleven of the principal Act, which specifies the matters in respect of which owners of establishments in which persons are employed are, if required by the Minister of Munitions, to give information, the following paragraph shall be inserted after paragraph (c):—

- (cc) the cost of production of the articles produced or dealt with in the establishment, and the cost of the materials used for such production, and the names and addresses of the persons by whom such materials were supplied or who are under contract to supply them.

(2) If any person, except as authorised by the Minister of Munitions, discloses or makes use of any information given

under section eleven of the principal Act, as amended by this or any subsequent enactment, he shall be guilty of a misdemeanour and on conviction be liable to imprisonment, with or without hard labour, for a term not exceeding two years, or to a fine, or to both imprisonment and a fine.

17.—(1) An inspector appointed by the Minister of Munitions for the purposes of the principal Act shall have power to enter at all reasonable times the premises of any establishment (other than a private dwelling-house not being a workshop) for the purpose of ascertaining whether it is desirable to put in force as respects any establishment or any person employed therein any of the powers of the Minister of Munitions, whether under the principal Act or otherwise, or for the purpose of obtaining any information in connection with the supply of munitions, and to make such examination and inquiry as may be necessary for any such purpose, and the owner of the establishment and every person engaged in the management or direction of the establishment shall furnish to any such inspector all such information, and shall produce for inspection all such registers, wages books, and other similar documents, as the inspector may reasonably require.

Powers of inspectors.

(2) If any person wilfully delays or obstructs an inspector in the exercise of any power under this section or fails to give such information or to produce such documents as aforesaid, he shall be guilty of an offence under the principal Act, and shall be liable to a fine not exceeding ten pounds.

(3) Every inspector shall be furnished with a certificate as to his appointment, and on applying for admission to any premises for the purposes of this section shall, if so required, produce such certificate.

12. If any person makes any false statement or representation, or gives any false certificate, or furnishes any false information—

Punishment for false statements, &c.

Am. Act (a) for the purpose of evading any provision of this Act; or

[1916 Act, s. 14].

- (b) in any proceedings before any munition tribunal, arbitration tribunal, referee, or board of referees under this Act or the rules made thereunder ; or
- (c) to the Minister of Munitions or any officer employed by him, for the purpose of obtaining or retaining employment, or of obtaining or retaining the services of any workman ;

or if any person alters or tampers with a certificate given under section seven of this Act, or personates or falsely represents himself to be a person to whom such a certificate has been given, or allows any other person to have possession of any such certificate issued for his use alone, he shall be guilty of an offence and liable on conviction under the Summary Jurisdiction Acts to imprisonment with or without hard labour for a term not exceeding three months or to a fine not exceeding fifty pounds.

Payment of members of arbitration and munitions tribunals, &c.

13. There shall be paid out of moneys provided by Parliament to any person being a member of an arbitration tribunal, munitions tribunal, or board of referees under this Act, or being a referee under this Act, and to any other officers required in connexion with any such tribunal or board, such remuneration and travelling or other expenses (including compensation for loss of time) as the Minister of Munitions or Board of Trade, as the case may be, with the sanction of the Treasury may determine.

Penalties.

- 14.—(1)** Any person guilty of an offence under this Act—
- (a) shall, if the offence is a contravention of or failure to comply with an award, be liable to a fine not exceeding five pounds for each day or part of a day during which the contravention or failure to comply continues, and, if the person guilty of the offence is an employer, for each man in respect of whom the contravention or failure takes place ; and
 - (b) shall, if the offence is a contravention of the provisions of this Act with respect to the prevention of lock-

outs, be liable to a fine not exceeding five pounds, in respect of each man locked out, for each day or part of a day during which the contravention continues; and

- (c) shall, if the offence is a contravention of the provisions of this Act with respect to the prohibition of strikes, be liable to a fine not exceeding five pounds for each day or part of a day during which the contravention continues; and
- (d) shall, if the offence is a contravention of or failure to comply with any regulations in a controlled establishment or any undertaking given by a workman under Part II. of this Act, be liable in respect of each offence to a fine not exceeding three pounds; and
- (e) shall, if the offence is a contravention of or failure to comply with any other provisions of this Act, be liable in respect of each offence to a fine not exceeding fifty pounds.

(2) A fine for any offence, under this Act, shall be recoverable only before the munitions tribunal established for the purpose under this Act.

15.—(1) The munitions tribunal shall be a person, appointed for the purpose by the Minister of Munitions, sitting with two or some other even number of assessors, one half being chosen by the Minister of Munitions from a panel constituted by the Minister of Munitions of persons representing employers and the other half being so chosen from a panel constituted by the Minister of Munitions of persons representing workmen, and the Minister of Munitions may constitute two classes of munitions tribunals, the first class having jurisdiction to deal with all offences and matters under this Act, the second class having jurisdiction, so far as offences are concerned, to deal only with any contravention of, or failure to comply with, any regulation made applicable to a controlled establishment or any undertaking given by a workman under Part II. of this Act.

Munitions tribunals.

See Cases,
p. 216.

Provisions as
to offences.

Am. Act 18.—(1) All offences which are by or under this Act made offences under the principal Act, other than those for which the maximum fine exceeds five pounds, shall be deemed to be offences with which munitions tribunals of the second class have jurisdiction to deal.

The Admiralty shall be substituted for the Minister of Munitions under this provision as the authority to appoint and choose members of a munitions tribunal to deal with offences by persons employed in any docks declared to be controlled establishments by the Admiralty.

(2) The Minister of Munitions or the Admiralty shall constitute munitions tribunals as and when occasion requires.

See Rules,
pp. 109-144.

1916 Act, s.
18 (5).

(3) Rules may be made for regulating the munitions tribunals or either class of munitions tribunals so far as relates to offences and the enforcement of orders under this Act by a Secretary of State, and so far as relates to any other matters which are referred to them under this Act by the Minister of Munitions, and rules made by the Secretary of State may apply, with the necessary modifications, any of the provisions of the Summary Jurisdiction Acts or any provisions applicable to a court of summary jurisdiction, which it appears expedient to apply, and any provisions so applied shall apply to munitions tribunals accordingly.

Note.—The words in red were added by section 18 (5) of Amendment Act.

In the application of this provision to Scotland the Secretary for Scotland shall be substituted for the Secretary of State, and in the application of this provision to Ireland the Lord Lieutenant shall be substituted for the Secretary of State.

Am. Act 18.—(2) Rules under section fifteen of the principal Act shall provide—

- (a) that in proceedings before a munitions tribunal the chairman shall, before giving his decision, consult with the assessors, and in all cases where the

assessors are agreed he shall, except as respects questions which appear to the chairman to be questions of law, give effect to their opinion in his decision ;

(b) that where the person or persons by or on behalf of whom or against whom the complaint is made in any proceedings before a munitions tribunal is or are a female worker, or two or more female workers, the assessor or one of the assessors chosen from the panel of persons representing workmen shall be a woman.

(3) Decisions of munitions tribunals shall be subject to appeal to such judge of the High Court as may be appointed by the Lord Chancellor for the purpose on any ground which involves a question of law or a question of mixed law and fact, or on any other ground that may be prescribed in rules made by the Lord Chancellor, in such cases and subject to such conditions and in such manner, as may be specified in such rules, and whether by means of the statement of a special case for the opinion of the judge or otherwise; and those rules may provide for such appeals in any classes of cases specified therein being heard and determined in a summary manner and for the fixing, remission, or reduction of any fees and scales of costs, and as to the manner in which effect is to be given to the decision of the judge, and the decision of the judge on any such appeal shall be final and binding on all munitions tribunals.

See Rules,
pp. 118-136.

In the application of this provision to Scotland "High Court" shall mean Court of Session, "Lord Chancellor" shall mean Lord President of the Court of Session, "rules made by the Lord Chancellor" shall mean Act of Sederunt.

In the application of this provision to Ireland "Lord Chancellor" shall mean the Lord Chancellor of Ireland.

(4) In the case of a company being guilty of an offence under the principal Act, every director, manager, secretary, or other officer of the company, who is knowingly a party to the contravention or non-compliance constituting the

offence shall also be guilty of the offence and liable to the like fine as the company.

(4) A person employed or workman shall not be imprisoned in respect of the non-payment of a fine imposed by a munitions tribunal for an offence within the jurisdiction of a tribunal, but that tribunal may, without prejudice to any other available means of recovery, make an order requiring such deductions to be made on account of the fine from the wages of the person employed or workman as the tribunal think fit, and requiring the person by whom the wages are paid to account for any sums deducted in accordance with the order.

[1916 Act, s.
13].

Costs in
vexatious
proceedings.

Am. Act **22**.—(1) Where a munitions tribunal dismisses any case under the principal Act or this Act, and it appears to the tribunal that the proceedings were vexatious or frivolous, the tribunal shall, unless it sees good cause to the contrary, award costs to the person against whom the complaint is made, and the costs so awarded shall, unless good cause to the contrary appears, include such sum as compensation for the expenses, trouble, and loss of time incurred in or incidental to the attendance of the person against whom the complaint is made before the tribunal as to the tribunal may seem just and reasonable.

Power for
companies
to carry on
munitions
work.

16. Any company, association, or body of persons shall have power, notwithstanding anything contained in any Act, order, or instrument by or under which it is constituted or regulated, to carry on munitions work during the present war.

Rules to be
laid before
Parliament.

17. Any rule made under this Act shall be laid before each House of Parliament forthwith, and, if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which that House has sat next after any such rule is laid before it praying that the rule may be annulled, His Majesty in Council may annul the rule and it shall thenceforth be void, but without

prejudice to the validity of anything previously done thereunder.

Am. Act **25.** Rules and regulations made under the principal Act as amended by this Act shall not be deemed to be statutory rules within the meaning of section one of the Rules Publication Act, 1893.

Provision as to rules.

18. The Documentary Evidence Act, 1868, as amended by the Documentary Evidence Act, 1882, shall apply to the Minister of Munitions in like manner as if that Minister were mentioned in the first column of the Schedule to the first-mentioned Act, and as if that Minister, or a secretary in the Ministry or any person authorised by the Minister to act on his behalf, were mentioned in the second column of that Schedule, and as if the regulations referred to in those Acts included any document issued by the Minister.

Application of Documentary Evidence Acts to Ministry of Munitions. 31 & 32 Vict. c. 37. 45 & 46 Vict. c. 9.

19. In this Act, unless the context otherwise requires—

Interpretation.

(a) The expression “lock-out” means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

(b) The expression “strike” means the cessation of work by a body of persons employed acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or any person or body of persons employed, or to aid other workmen in compelling their employer or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment.

Extension of definition of munitions work.

See Extension Orders, p. 181.

See Cases, p. 219.

Am. Act 9.—(1) The expression “munitions work” for the purposes of the principal Act and this Act means—

- (a) the manufacture or repair of arms, ammunition, ships, vessels, vehicles, and aircraft, and any other articles or parts of articles (whether of a similar nature to the aforesaid or not) intended or adapted for use in war, and of any other ships or vessels, or classes of ships or vessels, or parts of ships or vessels, which may be certified by the Board of Trade to be necessary for the successful prosecution of the war, and of any metals, machines, or tools required for any such manufacture or repair, and of the materials, of any class specified in an order made for the purpose by the Minister of Munitions, required for, or for use in, any such manufacture or repair as aforesaid; and
- (b) the construction, alteration or repair of works of construction and buildings for naval or military purposes, and of buildings in which munitions work is or is intended to be carried on, and the erection of machinery and plant therein, and the erection of houses for the accommodation of persons engaged or about to be engaged on munitions work; and
- (c) the construction, alteration, repair, or maintenance of docks and harbours and work in estuaries in cases where such construction, alteration, repair, maintenance or work is certified by the Admiralty to be necessary for the successful prosecution of the war; and
- (d) the supply of light, heat, water, or power or the supply of tramways facilities in cases where the Minister of Munitions certifies that such supply is of importance for the purpose of carrying on munitions work, and the erection of buildings, machinery, and plant required for such supply; and
- (e) the repair of fire engines and any other fire brigade appliances in cases where the Minister of Munitions certifies that such repair is necessary in the national interest.

See p. 62 for sec. 9 (2).

(3) This section shall not come into operation until the time fixed by rules made under section five of this Act as the date for the commencement of that section.

Am. Act **12**. For removing doubts it is hereby declared that the expressions "workman" and "workmen," wherever they occur in the principal Act and this Act, include not only persons whose usual occupation consists in manual labour, but also foremen, clerks, typists, draughtsmen, and other persons whose usual occupation consists wholly or mainly in work other than manual labour.

Explanation
of term
"workman."

20.—(1) This Act may be cited as the Munitions of War Act, 1915.

Short title
and duration.

(2) This Act shall have effect only so long as the office of Minister of Munitions and the Ministry of Munitions exist :

Provided that* this Act shall continue to apply for a period of twelve months after the conclusion of the present war to any difference arising in relation to the performance by the owner of any establishment of his undertaking to carry out the provisions set out in the Second Schedule to this Act notwithstanding that the office of Minister of Munitions and the Ministry of Munitions have ceased to exist.

Am. Act **20**. The Minister of Munitions may make arrangements with any other Government department for the exercise and performance by that department of any of his powers and duties under the principal Act or this Act which appear to him to be such as could be more conveniently so exercised and performed, and in such case the department and the officers of the department shall have the same powers and duties for the purpose as are by the principal Act and this Act conferred on the Minister of Munitions and his officers.

Arrangements
with other
departments.

Am. Act **27**. This Act may be cited as the Munitions of War (Amendment) Act, 1916, and shall be construed as one with the principal Act, and the principal Act and this Act may be cited together as the Munitions of War Acts, 1915 and 1916.

Short title.

* The original sec. 20 read "Part I. of this Act." Sec. 26 of 1916 Act repealed the words "Part I. of."

Sections 1, 4.

SCHEDULE I.

1. Any difference, matter or question to be referred for settlement in accordance with the provisions of this Schedule shall be referred to one of the three following arbitration tribunals:—

- (a) The Committee appointed by the first Lord of the Treasury known as the Committee on Production; or
- (b) A single arbitrator to be agreed upon by the parties or in default of agreement appointed by the Board of Trade; or
- (c) A court of arbitration consisting of an equal number of persons representing employers and persons representing workmen with a chairman appointed by the Board of Trade.

2. The tribunal to which the reference is made shall be determined by agreement between the parties to the difference or in default of such agreement by the Board of Trade.

3. The Arbitration Act, 1889, shall not apply to any reference under the provisions of this Schedule.

Note.—The Minister of Munitions may establish a special Arbitration Tribunal where the difference relates to wages, &c., of female workers, or of semi-skilled or unskilled workers. [See clause 6 (p. 72) of Amendment Act, clause 7 (p. 65), and clause 8 (p. 60).]

Sections 4 (4),
20.

SCHEDULE II.

1. Any departure during the war from the practice ruling in the workshops, shipyards, and other industries prior to the war, shall only be for the period of the war.

2. No change in practice made during the war shall be allowed to prejudice the position of the workmen in the owners' employment, or of their trade unions in regard to the resumption and maintenance after the war of any rules or customs existing prior to the war.

3. In any readjustment of staff which may have to be effected after the war priority of employment will be given to workmen in the owners' employment at the beginning of the war who have been serving with the colours or who were in the owners' employment when the establishment became a controlled establishment.

4. Where the custom of a shop is changed during the war by the introduction of semi-skilled men to perform work hitherto performed by a class of workmen of higher skill, the time and piece rates paid shall be the usual rates of the district for that class of work.

5. The relaxation of existing demarcation restrictions or admissions of semi-skilled or female labour shall not affect adversely the rates customarily paid for the job. In cases where men who ordinarily do the work are adversely affected thereby, the necessary readjustments shall be made so that they can maintain their previous earnings.

6. A record of the nature of the departure from the conditions prevailing when the establishment became a controlled establishment shall be kept, and shall be open for inspection by the authorised representative of the Government.

7. Due notice shall be given to the workmen concerned wherever practicable of any changes of working conditions which it is desired to introduce as the result of the establishment becoming a controlled establishment, and opportunity for local consultation with workmen or their representatives shall be given if desired.

8. All differences with workmen engaged on Government work arising out of changes so introduced or with regard to wages or conditions of employment arising out of the war shall be settled in accordance with this Act without stoppage of work.

9. Nothing in this Schedule (except as provided by the third paragraph thereof) shall prejudice the position of employers or persons employed after the war.

APPENDIX II.

CONTROLLED ESTABLISHMENTS.

EXCESS PROFITS RULES.

APPENDIX II.

RULES MADE BY THE MINISTER OF MUNITIONS IN PURSUANCE OF SECTION 5 (4) OF THE MUNITIONS OF WAR ACT, 1915, WITH RESPECT TO THE LIMITATION OF PROFITS OF A CONTROLLED ESTABLISHMENT.

Order No. 549,
15th September,
1915.

The Minister of Munitions in pursuance of Section 2 of the Rules Publication Act, 1893, hereby certifies that on account of urgency it is desirable that the following Rules should come into immediate operation, and he therefore in pursuance of the above Section and Section 5, sub-section 4, of the Munitions of War Act, 1915, hereby makes the following Rules, to come into operation forthwith as Provisional Rules:—

1. These Rules may be cited as “The Munitions (Limitation of Profits) Rules, 1915.”

2. In these Rules, unless the context otherwise requires:—

“The Act” means the Munitions of War Act, 1915.

“The Minister” means the Minister of Munitions for the time being.

“Controlled Establishment” means an establishment or part of an establishment in respect of which an order has been made by the Minister pursuant to Section 4 of the Act.

“Controlled Owner” means the company, firm or person by whom a controlled establishment is for the time being owned or managed.

“Period of Assessment” means any period within the period of control for which profits are to be ascertained for the purposes of the Act.

“Period of Control” means the period commencing with the date specified by the Minister upon making an order under Section 4 of the Act declaring an establishment to be a controlled establishment, and ending on the date when such establishment ceases to be controlled under the Act.

“Standard Period” means the two financial years of a controlled establishment completed next before the 4th August, 1914.

“Standard Amount of Profits” means the average of the amount of the net profits of a controlled establishment for the standard period ascertained or determined in accordance with the Act and these Rules, or a proportionate part thereof.

“The Referee” means the Referee or the Board of Referees referred to in Section 5 (3) of the Act.

“Audited” means audited by a chartered or incorporated accountant or by an accountant approved in any particular case by the Board of Trade.

3. The Interpretation Act 1889 shall apply for the purpose of the interpretation of these Rules as it applies for the purpose of the interpretation of an Act of Parliament.

Net Profits of a Controlled Establishment.

4. For the purposes of these Rules net profits of a controlled establishment shall be deemed to be profits which would have accrued to the controlled owner in respect of work done in such establishment if such profits had been arrived at before bringing into account any sums in respect of income tax or interest or (except so far as the Minister may otherwise allow, or as may be necessary in any case where net profits or losses of any other establishment belonging to the controlled owner are brought into account for the purpose of the Act or these Rules) in respect of assets not employed in the controlled establishment, and (subject as aforesaid) after

allowing proper selling, office, or other expenses, or apportionments thereof.

Standard Amount of Profits.

5. Within six weeks of being requested by the Minister so to do the controlled owner shall deliver to the Minister such audited accounts and particulars in respect of the controlled establishment and of any other establishment belonging or partly belonging to the controlled owner as the Minister may require.

6. As soon as may be after the receipt by the Minister of the accounts and particulars referred to in Rule 5, or where any controlled owner has failed to supply the Minister with the same or any of them within the time appointed, then as soon as may be thereafter the Minister shall deliver to the controlled owner notice of the amount at which the Minister is prepared to agree the standard amount of profits, and unless within fourteen days thereafter the controlled owner shall serve upon the Minister notice of objection, the said amount shall be deemed to have been agreed and to be the standard amount of profits. If objection shall be so served and the Minister and the controlled owner are unable to settle the standard amount of profits by agreement, the matter shall be remitted by the Minister to the Referee for determination.

The amount which the Referee shall thereupon determine shall be deemed to be the standard amount of profits, whether the amount so determined be greater or less than the amount which the Minister was prepared to agree as aforesaid.

Net Profits for a Period of Assessment.

7. (i) The accounts in respect of a controlled establishment for any financial year or period which includes a period of assessment shall, unless the Minister otherwise allows or requires, be made up to dates corresponding to those to which, and on the same basis as nearly as may be, as the

accounts in respect of that establishment for the standard period were made up.

(ii) Where any such financial year or period is greater than the period of assessment, the net profits for the period of assessment shall, unless the Minister otherwise allows or requires, for the purposes of these Rules, be taken to be the same proportion of the net profits for the financial year or period as the period of assessment is of the financial year or period.

(iii) Except so far as the Minister shall otherwise expressly declare in any particular case, no period of assessment shall be of greater length than one year, and if and whenever the Minister shall consider it necessary so to do he shall fix the dates at which any period of assessment shall be deemed to commence and terminate.

8. Within three calendar months of the expiration of any financial year or period covering a period of assessments the controlled owner shall deliver to the Minister:—

- (a) Audited accounts and particulars for that financial year or period similar to those relating to the standard year or period required under Rule 5;
- (b) A statement setting out the adjustments (if any) which he claims should be made in the accounts so delivered in respect of any matter to which due consideration may be given under Rule 9, and whether he requests any addition to the standard amount of profits under Rule 10;
- (c) A declaration (which if so required by the Minister shall be a statutory declaration) made by the controlled owner and his auditor (or in the case of the controlled owner being an incorporated company, by the chairman or managing director or the responsible officer and the auditor of the company), declaring that the accounts are prepared strictly in accordance with Rule 7, except so far as is otherwise expressly therein declared, and that neither the con-

trolled owner nor such officer has been party or privy to any transaction which might operate to prejudice the Exchequer in respect of excess profits under the Act.

9. In determining the net profits for any period of assessment, due consideration shall be given to, and any appropriate adjustments may be made in respect of all or any of the following matters, that is to say:—

- (a) Exceptional wear and tear of plant, buildings, and machinery;
- (b) Capital expenditure specially incurred for the purpose of munitions work;
- (c) The probable value to the controlled owner at the end of the period of control of any plant, buildings or machinery erected or installed, or other expenditure incurred for munitions work, since the 4th August, 1914;
- (d) Special provisions or terms of any contracts entered into between the Government and the controlled owner;
- (e) Any exceptional services rendered by the controlled owner in connection with the controlled establishment;
- (f) Any increase in salaries or other emoluments of any persons engaged in the management or direction of the controlled establishment made since the end of the standard period, or any steps taken since the end of that period which might operate to decrease net profits;
- (g) Generally any other matter which may appear to the Minister, or to the Referee, as the case may be, material to be taken into account;

Any such adjustments may be made either by additions to or deductions from the standard amount of profits or by way of charges or disallowance of charges against profits for the period of assessment.

10. (i) For the purpose of ascertaining the excess of the net profits of a controlled establishment for any period of assessment in any case where (a) the average amount of capital employed in a controlled establishment during the period of assessment is greater than the average during the standard period, or (b) the volume of output of a controlled establishment for the period of assessment is proportionately greater than the volume of output for the standard period, there shall, at the request of the controlled owner, be added to the standard amount of profits whichever of the following sums may be the greater, that is to say:—

- (a) Such sum (in lieu of, or, at the discretion of the Minister, in addition to the one-fifth referred to in Section 5 (1) of the Act) as shall be equivalent to interest at the rate of eight per centum per annum on such amount as the Minister shall decide is the amount of the additional average capital, or
- (b) Such sum (in lieu of, or, at the discretion of the Minister, in addition to the said one-fifth) amounting to such fraction of the additional net profits which in the opinion of the Minister might fairly have been earned in the standard period by an equivalent additional volume of output as the Minister shall decide will, in the circumstances of the case, afford a reasonable return in respect of the additional volume of output.

In determining what is additional average capital for the purposes of this Rule, capital provided by the Government shall be excluded, but temporary loans (other than capital so provided) and undivided ascertained profits employed in the business may be treated as capital.

For the purposes of this Rule the output of a controlled establishment for a period of assessment shall be deemed to be the same proportion of the output for the financial year or period which covers the period of assessment which the period of assessment is of that financial year or period.

- (ii) The Minister shall, when delivering to the controlled

owner notice of the amount at which the Minister is prepared to agree the net profits for any period of assessment to which this Rule applies, state the sum which the Minister has decided shall be added under this Rule to the standard amount of profits.

If the controlled owner when serving on the Minister notice of objection to the amount at which the Minister is prepared to agree such net profits, shall also serve notice that he objects to the sum which the Minister has decided is to be added under this Rule to the standard amount of profits, the Referee, in determining the net profits for the said period of assessment, shall have the like power to that conferred upon the Minister by this Rule and the sum (if any) added by the Referee to any standard amount of profits under this Rule may be greater or less than the sum which the Minister decided was to be added thereto.

11. As soon as may be after the receipt by the Minister of the accounts and particulars referred to in Rule 8 and such other accounts and particulars as the Minister may have required, or where any controlled owner has failed to supply the Minister with the same or any of them within the time appointed, then so soon as may be thereafter the Minister shall deliver to the controlled owner notice of the amount at which the Minister is prepared to agree the net profits for the period of assessment, and unless within fourteen days thereafter the controlled owner shall serve upon the Minister notice of objection, the said amount shall be deemed to have been agreed and to be the net profits for such period of assessment. If objection shall be so served and the Minister and the controlled owner are unable to settle such net profits by agreement, the matter shall be remitted by the Minister to the Referee for determination.

The amount which the Referee shall thereupon determine shall be deemed to be the net profits for such period of assessment, whether the amount so determined be greater or less than the amount which the Minister was prepared to agree as aforesaid.

12. In ascertaining or determining net profits for the

final period of assessment proper adjustments may be made in respect of the whole period of control in regard to any matters referred to in Rule 9, so far as it may then be shown that sufficient adjustments have not been made in regard thereto in ascertaining or determining net profits for any previous period or periods of assessment.

13. (i) Any excess of the net profits of any controlled establishment for any period of assessment over the amount thereof divisible under the Act as ascertained or determined in accordance with the Act and these Rules shall be paid to the Minister for the credit of the Exchequer by the controlled owner within fourteen days after the amount of such excess has been ascertained or determined, or in any special circumstances within such extended time as the Minister may allow, and the Minister may make such allowance on such terms as he shall in each case think proper.

(ii) If in the opinion of the Minister a substantial sum will be payable to the Minister for the credit of the Exchequer as the excess of the net profits of any controlled establishment for any period of assessment, then notwithstanding that the amount of such net profits has not been ascertained or determined the Minister may, after the expiration of the period fixed by Rule 8 for the delivery of accounts, require provisional payment to be made to him for the credit of the Exchequer on account of such excess in such manner as he shall direct, and payment shall be made by the controlled owner accordingly.

(iii) If on making any such adjustments as are provided for by Rule 12, it shall be shown that a controlled owner has paid to the Minister for the credit of the Exchequer more than having regard to such adjustments he should have paid, the Minister shall on the application of the controlled owner refund to him the amount so overpaid.

General.

14. (i) All balance sheets, accounts and statements relating to any controlled establishment shall be subject to examina-

tion by an accountant nominated by the Minister, and the controlled owner shall at all reasonable times afford to such accountant proper facilities for inspecting all books, documents and records relating to the controlled establishment or any other establishment belonging or partly belonging to the controlled owner, which may be necessary to enable such accountant properly to examine and check any such balance sheets, accounts or statements and shall afford to any other person nominated by the Minister access to and proper facilities for inspecting any plant, stock and other assets of any such establishment and any documents and sources of information which may be necessary for the performance of his duties, and the controlled owner shall give to or procure for the said accountant all accounts and information and for any such other person all information which may be necessary for such purposes. The controlled owner shall at all times furnish to the Minister or to the Referee all such documents and information as they may respectively require with regard to the controlled establishment or any other establishment belonging to the controlled owner.

(ii) If any question shall arise as to whether any inspection, extract or information required by any such accountant or such other person under this Rule is necessary for any such purpose, the matter in difference shall on the application of either party thereto, or may at the instance of the Minister, be referred to and shall be determined by the Referee.

15. Any time limited by these Rules may be extended by the Minister from time to time and that notwithstanding that the time limited has expired.

16. In the event of a Board of Referees being appointed or designated by the Minister under the Act, two members of the Board shall constitute a quorum.

17. The decision of the Referee on any matter referred to him shall be conclusive on the matter for all purposes.

18. Any notice or other document required by these Rules

to be served or delivered may be sent through the post properly addressed in a prepaid registered letter, and unless the contrary is proved, shall be deemed to have been served or delivered in the ordinary course of post.

19. Any failure to comply with any provision of these Rules after being required so to do by the Minister shall be an offence under the Act.

20. These Rules shall come into force on the fifteenth day of September, 1915.

Signed by order of the Minister of Munitions this fifteenth day of September, 1915:

(Signed) H. LLEWELLYN SMITH,
 General Secretary to the Ministry of Munitions.

MINISTRY OF MUNITIONS,
6 WHITEHALL GARDENS, S.W.

APPENDIX III.

LEAVING CERTIFICATE RULES.

APPENDIX III.

THE MUNITIONS (LEAVING CERTIFICATES) RULES, Order No. 121.
1916, DATED FEBRUARY 14TH, 1916, MADE BY
THE MINISTER OF MUNITIONS UNDER SECTION
5 OF THE MUNITIONS OF WAR (AMENDMENT)
ACT, 1916, WITH RESPECT TO LEAVING CER-
TIFICATES.

1. Where a workman employed on or in connection with munitions work in any establishment of a class to which Section 7 of the principal Act, as amended by Section 5 of the amending Act (hereinafter described as the section), is applied by Order of the Minister of Munitions, desires to leave such employment, the employer shall give the workman a certificate in the form set out in the first schedule to these Rules, unless he desires to withhold consent to such workman leaving him.

2. Where a workman employed on or in connection with munitions work in any establishment of a class to which the section is applied, is dismissed or discharged or applies for a certificate on the ground that he has been for a period of more than two working days given no opportunity of earning wages, the employer shall forthwith give him a certificate in the form set out in the first schedule to these Rules, unless he is of opinion that the workman was guilty of misconduct for the purpose of obtaining dismissal or discharge.

3. Where a workman, who is employed in any establishment of a class to which the section is applied, and who is not employed on or in connection with munitions work, desires to leave such employment, the employer may, if required by the workman, give him a certificate in the form set out in the first schedule to these Rules.

4. Where a workman, employed in any establishment of a class to which the section is applied, has failed to obtain a certificate from his employer, he or his trade union representative may lodge a complaint with a munitions tribunal, and (a) the tribunal, if it considers that the workman was employed on or in connection with munitions work within the last six weeks, but that the employer has unreasonably refused or neglected to issue a certificate, may either order the employer to issue such certificate or may itself issue such certificate in the manner provided by these Rules; and (b) if in the opinion of the tribunal the workman was not employed on or in connection with munitions work within the last six weeks, it may give him a certificate to that effect.

5. Where a workman in any case specified in Rule 2 above has failed to obtain a certificate from his employer, the tribunal, unless it is of opinion that the workman was guilty of misconduct for the purpose of obtaining dismissal or discharge, shall issue or order the issue to him of such a certificate, and may, in addition, order the payment to him by the employer of such sum, not exceeding five pounds, as the tribunal may think fit.

6. Where, on a complaint made by a workman employed on or in connection with munitions work in any establishment of a class to which the section is applied, a tribunal is satisfied that he has left employment on account of conduct on the part of the employer or any agent of the employer which would justify the immediate termination by the workman of his contract of service, the tribunal shall issue or order the issue to him of a certificate, and may, in addition, order the payment to him by the employer of such sum not exceeding five pounds as the tribunal may think fit.

7. A workman who has obtained a certificate either from his employer or from a tribunal, shall, on obtaining new employment, deliver the certificate to the new employer, who shall forthwith cancel the certificate and shall either retain it in his possession or destroy it.

8. On application by a workman, a tribunal, if satisfied

that a certificate duly issued to him has been lost, defaced or destroyed before he has entered a new employment, may issue or order the issue to him of a new certificate on payment of such sum, not exceeding five shillings, as the tribunal may think fit.

9. No note or mark of any kind shall be made in or affixed to or impressed on a certificate otherwise than as provided in these Rules.

10. Where an employer is required under Sub-section 3 of Section 5 of the Munitions of War (Amendment) Act, 1916, to report that a contract of service with a workman is terminated by dismissal, he shall, within twenty-four hours of giving notice of dismissal to the workman, report the matter to a Labour Exchange, giving the particulars set out in the second schedule to these Rules, and notice of such report shall be sent to the workman by the Manager of the Labour Exchange.

11. Where a contract of service with a workman has been terminated by dismissal and the employer is required under Sub-section 3 of Section 5 of the Munitions of War (Amendment) Act to report the matter, the workman may, if he so desires, make complaint to a munitions tribunal which may, after hearing the case, order the employer to pay such sum—not in any case exceeding five pounds—as it thinks fit in lieu of notice, unless it is of opinion that, owing to the discontinuous or temporary nature of the employment or the misconduct of the workman, the employer had reasonable cause for dismissing the workman without a week's notice.

12. An employer or representative of employers may make application to the Minister to exempt any class of workmen from the provisions of Sub-section 3 of Section 5 of the Munitions of War (Amendment) Act, 1916, on the ground of the discontinuous or temporary nature or other circumstances of their employment; and the Minister, if he is of opinion that there is a *prima facie* ground for the application, shall take such steps as he thinks fit to give notice both to em-

ployers and workpeople affected of the receipt of such application and of the date, not being less than 14 days after the date of such notice, on or after which he proposes to give his decision on the application.

13. If, before the date specified, any representations with reference to the application are made in writing to the Minister by or on behalf of any persons appearing to him to be interested, the Minister shall take those representations into his consideration and he shall publish his decision upon the application in such manner as he thinks fit.

14. Any breach of these Rules shall be punishable as an offence under the principal Act with a fine not exceeding five pounds in respect of each offence, and such offence shall be within the jurisdiction of a local munitions tribunal, and any Order made under these Rules shall be enforceable by a local munitions tribunal in the manner provided by the Munitions Tribunal Rules, 1916.

15. The expression "workman" for the purposes of these Rules includes not only male but female persons, and not only persons whose usual occupation consists in manual labour but also foremen, clerks, typists, draughtsmen and other persons whose usual occupation consists wholly or mainly in work other than manual labour.

16. These Rules may be cited as the Munitions (Leaving Certificates) Rules, 1916.

17. Section 5 and Section 9 of the Munitions of War (Amendment) Act, 1916, and these Rules made under Section 5 shall come into operation on the 28th day of February, 1916.

Signed on behalf of the Minister of Munitions this 14th day of February, 1916.

H. LLEWELLYN SMITH,

General Secretary.

MINISTRY OF MUNITIONS,

6 WHITEHALL GARDENS, S.W.

SCHEDULE I.

MUNITIONS OF WAR ACTS, 1915 AND 1916.

CERTIFICATE UNDER SECTION 7 OF THE MUNITIONS OF WAR ACT, 1915, AS AMENDED BY SECTION 5 OF THE MUNITIONS OF WAR (AMENDMENT) ACT, 1916.

I hereby certify that..... Name of workman.
 lately employed as Name and address of employer.
 by..... Date.
 is free as from.....
 to accept other employment so far as the provisions of the above-mentioned Sections are concerned.

Signed.....

Address.....

Under Rule 7 of the Munitions (Leaving Certificates) Rules, 1916, "A workman who has obtained a certificate either from his employer or from a tribunal, shall, on obtaining new employment, deliver the certificate to the new employer, who shall forthwith cancel the certificate and shall either retain it in his possession or destroy it."

SCHEDULE II.

MUNITIONS OF WAR (AMENDMENT) ACT, 1916.

REPORT BY AN EMPLOYER TO A LABOUR EXCHANGE UNDER SECTION 5 (3) IN ACCORDANCE WITH RULE 10 OF THE MUNITIONS (LEAVING CERTIFICATES) RULES, 1916, TO BE MADE WITHIN 24 HOURS OF NOTICE OF DISMISSAL.

I/We
 hereby report that the contract of service between me/us and.....
a workman employed on or
 in connection with munitions work in an establishment to which the provisions of Section 7 of the Munitions of War Act, 1915, as amended by Section 5 of the Munitions of War (Amendment) Act, 1916, are applied by an Order of the Minister of Munitions has been or is about to be terminated by dismissal on.....,
 with less than one week's notice or wages in lieu thereof. The grounds of the said dismissal were as follows:—

APPENDIX IV.

TRIBUNALS.

1. Munitions Tribunals Rules—England and Wales.
2. Appeal Tribunal Rules—England and Wales.
3. Munitions Tribunals Rules—Scotland.
4. Appeal Tribunal Rules—Scotland.

APPENDIX IV.

MUNITIONS TRIBUNALS RULES.

ENGLAND AND WALES.*

1. There shall be two classes of Munitions Tribunals, that is to say, Munitions Tribunals of the first class (hereinafter referred to as "General Munitions Tribunals") and Munitions Tribunals of the second class (hereinafter referred to as "Local Munitions Tribunals"), and these Rules shall apply both to General and to Local Munitions Tribunals, except so far as they are expressly confined to tribunals of a particular class.

1915 Act, s. 15
(3).
Order No. 123,
24th Feb.,
1916.

2. A Munitions Tribunal shall consist of a person (hereinafter referred to as "the Chairman") appointed for the purpose by the Minister of Munitions, sitting with two or some other even number of assessors.

Provided that in the unavoidable absence or incapacity of the chairman a deputy may be appointed to act in his place.

3. Of the assessors, one-half shall be chosen from a panel constituted by the Minister of Munitions of persons representing employers, and the other half shall be chosen from a panel constituted by the Minister of Munitions of persons representing workmen.

4. In the case of General Munitions Tribunals the panels may be constituted either generally or for any divisions specified by the Minister of Munitions. In the case of Local Munitions Tribunals different panels shall be constituted for the several districts for which Local Munitions Tribunals are established.

* The rules for Ireland are for all practical purposes identical with those for England.

5. Where the person or persons by or on behalf of whom or against whom a complaint is made is or are a female worker, or two or more female workers, the assessor or one of the assessors chosen from the panel of persons representing workmen shall be a woman.

6. A general Munitions Tribunal shall have jurisdiction to deal with all offences under the Munitions of War Act, 1915 (which Act, as amended by the Munitions of War (Amendment) Act, 1916, is hereinafter referred to as "the Act"), not being offences which by the Act are punishable under the Summary Jurisdiction Acts, and with all other matters therein specified, but shall not deal with any matter with which a Local Munitions Tribunal is competent to deal unless such matter arises in connection with a matter with which a Local Munitions Tribunal is not competent to deal or is for any reason referred to a General Munitions Tribunal by the Minister of Munitions, or is transferred under these rules from a Local Munitions Tribunal to a General Munitions Tribunal.

7. A Local Munitions Tribunal shall have jurisdiction to deal only with complaints--

- (a) That a person has acted in contravention of or failed to comply with regulations made applicable to the controlled establishment in which he is either an employer or is employed; or
- (b) That a workman has acted in contravention of or failed to comply with an undertaking to which Section 6 of the Act applies; or
- (c) That an employer has unreasonably refused or neglected to issue a certificate under Section 7 of the Act, whether or not coupled with a complaint under Section 5 (2) of the Munitions of War (Amendment) Act, 1916; or
- (d) That a person has been guilty of any offence which by the Munitions of War (Amendment) Act, 1916, or by any rules made thereunder, is made

an offence under the Act, being an offence for which the maximum fine does not exceed five pounds;

- (e) That less than a week's notice or wages in lieu of notice have been given in cases where such notice or wages in lieu of notice are required by Section 5 (3) of the Munitions of War (Amendment) Act, 1916, to be given.

8. Any complaint under the Act shall be made in writing to the Chairman of the Munitions Tribunal appointed for the division or district in which the matter arises, or to some other person appointed by him for the purpose.

Provided that nothing in this rule shall be construed as limiting the jurisdiction of a Munitions Tribunal, whether Local or General, so as to prevent such Tribunal trying a complaint as respects any matter which may have arisen outside the division or district of the Tribunal, and no plea that any matter did not arise in the division or district of the Tribunal before which the complaint is made shall be heard save with the consent of the Chairman of the Tribunal; but a Munitions Tribunal shall not try any complaint when the matter of the complaint arises within the division or district of some other Munitions Tribunal unless the complaint has been transferred to that Tribunal in accordance with these rules.

9. One complaint may include two or more defendants.

10. The Chairman of a Local Munitions Tribunal may at any time before the hearing transfer the complaint to any other Local Munitions Tribunal if he is satisfied that it could be more conveniently tried by such other Tribunal, and may with the consent of the Minister of Munitions transfer any complaint to a General Munitions Tribunal.

11. Where the complaint relates to an offence under the Act:—

- (i) The Chairman, or some other person appointed for the purpose by the Chairman, shall (if satisfied

that there is a *prima facie* case) issue to and cause to be served on the person or persons in respect of whom the complaint is made, a notice to appear before the Tribunal at such place and time as the Chairman may appoint.

- (ii) The Chairman, or some other person appointed as aforesaid shall cause to be served on the person who has made the complaint notice of the time and place of the hearing.
- (iii) No person shall be fined for an offence under the Act unless he has appeared before the Tribunal or the Tribunal is satisfied that he has had a reasonable opportunity of so appearing.
- (iv) The Tribunal shall for the purpose of adjudicating upon any such complaint have power to take evidence upon oath.
- (v) So far as is consistent with the provisions of the Act and any Rules made thereunder, the provisions of the Summary Jurisdiction Acts (including the Criminal Justice Administration Act, 1914) with respect to—
 - (a) enforcing the attendance of defendants before courts of summary jurisdiction;
 - (b) compelling persons to attend as witnesses and give evidence and produce documents before courts of summary jurisdiction;
 - (c) payment and recovery of fines otherwise than by imprisonment and enforcement of orders;
 - (d) service and execution of process as between one part of the British Islands and another—

shall apply to proceedings under the Act as though a Munitions Tribunal were a Court of Summary Jurisdiction, and as if the Chairman were a Justice of the Peace, a complaint were

an information laid upon oath, a notice to appear duly served under these rules were a summons duly issued and served, and an offence under the Act were an offence punishable on summary conviction, and with such other modifications as may be necessary to adapt those provisions to proceedings under the Act.

- (vi) Where a fine has been imposed on a person employed or a workman by a Munitions Tribunal, that Tribunal may make an order requiring such deductions to be made on account of the fine from the wages of such person employed or workman as the Tribunal think fit and requiring the person by whom the wages are for the time being paid to pay to the Clerk to the Tribunal or other person appointed for the purpose by the Minister of Munitions any sums so deducted, and any sum so payable shall be recoverable in like manner as a fine imposed by the Tribunal; where the person on whom the fine has been imposed leaves the employment of any person to whom the order relates, the last mentioned person shall forthwith give notice thereof to the clerk or other person to whom the deductions are payable.

12. Where the complaint relates to the refusal or neglect by an employer to issue a certificate under Section 7 of the Act or is made under subsection (2) or subsection (3) of Section 5 of the Munitions of War (Amendment) Act, 1916, or the rules made under that section:—

- (i) The Chairman or some other person appointed by the Chairman for the purpose shall (if satisfied that there is a *prima facie* case) issue to and cause to be served on the person or persons in respect of whom the complaint is made, a notice to appear before the Tribunal at such place and time as the Chairman may appoint.

Provided that if any person in respect of whom complaint is made is unable or unwilling to attend at the hearing of the case he may send to the Chairman a statement in writing signed by him of the facts of the case and of any grounds upon which he desires to oppose the issue of a certificate, and any such statement shall be considered by the Tribunal.

- (ii) No order shall be made against any person under any of the said enactments unless he has appeared before the Tribunal, or the Tribunal is satisfied that he has had a reasonable opportunity of so appearing.
- (iii) Notice of the time and place of sitting of the Local Munitions Tribunal to which the complaint will be reported or referred shall be served on the person by whom the complaint was made so that it would reach him in the ordinary course of post not less than 24 hours before the sitting of the Tribunal, and such person shall be entitled to attend such sitting during the consideration of his case;

Provided that—

- (a) With the consent of such person the case may be considered by the Tribunal notwithstanding that notice has not been served on him in accordance with this rule; and
 - (b) If such person is unable or unwilling to attend at the hearing of the case he may send to the Chairman a statement in writing signed by him of the facts of the case and of any grounds upon which he desires to urge the issue of a certificate and any such statement shall be considered by the Tribunal.
- (iv) In any case in which the Chairman certifies that

the evidence of any person was necessary to the decision of the case, expenses in respect of such attendance may be allowed on a scale approved by the Treasury, but subject as aforesaid, expenses will not in any case be allowed to witnesses nor except in cases to which the proviso to rule 17 applies may costs be awarded.

(v) So far as is consistent with the provisions of the Act and any rules made thereunder the provisions of the Summary Jurisdiction Acts with respect to the enforcement of orders shall apply as if a Munitions Tribunal were a Court of Summary Jurisdiction and the Chairman a Justice of the Peace and with such other modifications as may be necessary to adapt those provisions to the enforcement of orders made on complaints to which this rule applies.

(vi) In determining whether the grant of a certificate has been unreasonably refused a Munitions Tribunal shall take into consideration the question whether the workman has left or desires to leave his work for the purpose of undertaking any class of work in which his skill or other personal qualifications could be employed with greater advantage to the national interests, and whether the employer has failed to observe the conditions laid down in the fair wages clauses required by resolution of the House of Commons to be inserted in Government contracts, and whether the workman has left or desires to leave his work because he has recently completed a term of apprenticeship or period of learning his trade or occupation and desires to obtain the full standard rate of wages applicable to fully qualified workmen in his trade or occupation.

(vii) Where a Munitions Tribunal dismisses the complaint on the ground that the workman is free to accept other employment without holding a cer-

Order No. 649,
2nd Sept.,
1916.

tificate because he was not employed in an establishment to which the provisions of Section 7 of the Munitions of War Act, 1915, were for the time being applied by an order made thereunder, the Tribunal shall enter on its register of complaints the ground on which the complaint was dismissed, the names of the parties, the description and situation of the place of employment and the date on which the workman left or was discharged or dismissed from the employment; and may, at the request of the person by or on behalf of whom the complaint was made, issue to such person a copy of such entry certified under the hand of the Clerk to the Tribunal.

13. No case shall be heard, tried or adjudged by a Munitions Tribunal except in open Court.

14. A Munitions Tribunal may from time to time adjourn the hearing of any case pending before it, but where a hearing is so adjourned notice of the time and place of this adjourned hearing shall, unless communicated to the parties at the time of the adjournment, be sent to the parties so as to reach them in the ordinary course of post not less than 24 hours before the adjourned hearing.

15. The Chairman, before giving his decision, shall consult with the assessors, and in all cases where the assessors are agreed he shall, except as respects questions which appear to the Chairman to be questions of law, give effect to their opinion in his decision.

16. A workman may in any case be represented by his trade union representative, but subject as aforesaid no party to any proceedings before a Local Munitions Tribunal may be represented by a counsel or a solicitor.

17. Subject to the provisions of paragraph (iv) of Rule 12, the question of costs shall be in the absolute discretion of the Chairman, who may order the same to be paid by any

party or parties to the proceedings in such manner as he shall direct, and may either assess the amount thereof himself or may refer the same for assessment to any other person appointed by the Minister of Munitions for the purpose.

Provided that where a Munitions Tribunal dismisses any case and it appears to the Tribunal that the proceedings were vexatious or frivolous, the Tribunal shall, unless it sees good cause to the contrary, award costs to the person against whom the complaint is made, and the costs so awarded shall, unless the Tribunal sees good cause to the contrary, include such sum for the expenses, trouble and loss of time incurred in or incidental to the attendance of the person against whom the complaint is made before the Tribunal as to the Tribunal may seem just and reasonable.

18. An order for costs may be enforced by a Munitions Tribunal in the same manner as a fine.

19. Any process with respect to any proceedings under the Act may be issued by any Munitions Tribunal, whether local or general, whether the proceedings are pending before that Tribunal or some other Munitions Tribunal, whether local or general, and any process issued by any Munitions Tribunal may without any endorsement be executed either within the district of that Tribunal or elsewhere in England and Wales.

20. A notice required or authorised under these Rules to be served may be forwarded by registered post addressed to the person on whom it is to be served at his last known place of abode or at any place where he carries on business, and if so forwarded shall be deemed to have been duly served.

21. The Minister of Munitions shall appoint for each Tribunal a clerk.

22. All fines imposed by a Munitions Tribunal shall be paid to the clerk of the Tribunal who shall, through the Minister of Munitions, pay into the Exchequer all fines received by him.

23. The Chairman of a Munitions Tribunal shall keep a note of the evidence given in proceedings before the Tribunal.

24. Every Munitions Tribunal shall keep a register of complaints made to, and proceedings taken by the Tribunal under the Act, and shall furnish the Minister of Munitions with duplicates thereof when required by him to do so.

25. Subject as aforesaid, the procedure of a Munitions Tribunal and the forms to be used for the purposes of proceedings before a Munitions Tribunal, shall be such as a Secretary of State or the Minister of Munitions may determine.

26. The Interpretation Act, 1889, shall apply for the purpose of the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

27. The Munitions (Tribunals) Rules, 1915, are hereby revoked, but nothing in this revocation shall affect the validity of any order or complaint made or process issued under the Rules so revoked, but every such order, complaint or process shall have effect as if made or issued under these Rules.

28. These Rules may be cited as the Munitions (Tribunals) Rules, 1916, and shall come into force as from the twenty-eighth day of February, 1916.

APPEAL RULES—ENGLAND AND WALES.*

Title of Rules.

1916 Act, s. 18.
Order No. 137,
2nd March,
1916.

1. These rules may be cited as the Munitions Tribunals (Appeal) Rules, 1916, and shall come into operation on the sixth day of March, 1916.

Interpretation of Rules.

2. (i) The expression "the Acts" shall mean the Munitions of War Act, 1915 and 1916.

The expression "Appeals Officer" shall mean such person

* The rules for Ireland are for all practical purposes identical with those for England.

as may be appointed by the Lord Chancellor to act as the Officer of the Court under these rules.

The expression "the Judge" shall mean such Judge of the High Court as may be appointed by the Lord Chancellor for the purpose of hearing appeals from Munitions Tribunals.

(ii) The Interpretation Act, 1889, shall apply for the interpretation of these rules as it applies for the interpretation of an Act of Parliament.

Right of Appeal.

3. (i) Any person convicted of an offence, or against whom an order has been made, or to whom (including the trade union representative of any workman) a leaving certificate has been refused, by a Munitions Tribunal, and in all cases the Minister of Munitions, may appeal to the Judge against the decision :—

(a) on any ground of appeal which involves a question of law alone ; and

(b) with the leave of the Judge or with the written permission of the Chairman of the Munitions Tribunal (in these rules referred to as the Chairman) on any ground which involves a question of mixed law and fact.

(ii) The other party to the proceeding before the Munitions Tribunal may, with the leave of the Judge or with the written permission of the Chairman, appeal to the Judge against the decision on any ground which involves a question of law alone, or which involves a question of mixed law and fact.

Notices of Appeal.

4. (i) Every person who desires to appeal, or to obtain the leave of the Judge to appeal, against any decision of a Munitions Tribunal shall give notice in writing of his intention to the Clerk to the Munitions Tribunal, and shall send by registered post his notice of appeal, or notice of application for leave to appeal, to the Judge, within seven days of the date of the decision : provided that the Judge may, in his

discretion, grant an extension of time within which such notice shall be given.

(ii) (a) Every notice of appeal or notice of application for leave to appeal shall be in writing and shall state:—

- (1) the names and addresses of both parties to the proceedings before the Munitions Tribunal; and
- (2) the place where the Tribunal sat; and
- (3) the name of the Chairman; and
- (4) the decision of the Tribunal; and
- (5) the date of the decision; and
- (6) the question or questions of law, or of mixed law and fact, which are the grounds of the appeal;

and shall be accompanied by a copy of either the complaint or the notice to appeal before the Munitions Tribunal.

(b) In every case where the Chairman has given his written permission to appeal, the written permission shall be attached by the appellant to his notice of appeal.

(c) Every application for an extension of time under this rule shall be in writing, and shall state the grounds of the application, and shall be accompanied by the proposed notice of appeal or notice of application for leave to appeal.

(iii) Every notice of appeal, or notice of application for leave to appeal, or for an extension of time, shall be signed by the appellant himself: provided that it shall be sufficient compliance with this rule if—

- (a) an appellant who is unable to write affixes his mark to any notice in the presence of a witness who attests the mark; or
- (b) in the case of a body corporate, the notice is signed by the secretary, clerk, manager, or solicitor hereof; or
- (c) in the case of the Minister of Munitions, the notice purports to be signed by any person duly authorised by the Minister in that behalf.

5. (i) All notices or other documents required or authorised to be given, for the purposes of these rules, to the Judge, shall be addressed to "The Appeals Officer of Munitions Tribunals, Room 751, West Wing, Royal Courts of Justice, London."

(ii) All notices or other documents required or authorised by these rules to be given or sent shall be deemed to be duly given or sent if forwarded by registered post, addressed to the person to whom they are required or authorised to be given or sent, at his last known place of abode, or at any place where he carries on business.

6. Where the Judge has, on a notice of application for leave to appeal, given leave to appeal, it shall not be necessary for the appellant to give any notice of appeal, but the notice of application for leave to appeal shall be treated as a notice of appeal.

Abandonment of Appeal.

7. An appellant, at any time after he has served notice of appeal or notice of application for leave to appeal, and before the day fixed for the hearing or determination, may, subject to such order as to costs as may be made by the Judge, abandon his appeal by giving notice of abandonment thereof to the Appeals Officer, and the Appeals Officer shall thereupon give notice to the Clerk to the Munitions Tribunal.

Summary Dismissal of Appeal.

8. (i) If it appears to the Judge that any notice of appeal, purporting to be on a ground which involves a question of law alone, does not show any substantial ground of appeal, he may dismiss it summarily and without requiring or permitting either party to appear or furnish further evidence or argument.

(ii) When the Judge has dismissed an appeal summarily, or has refused an application for leave to appeal, the Appeals Officer shall give notice to the Clerk to the Munitions

Tribunal concerned and to the appellant of the decision of the Judge.

Notice to Respondent.

9. The Appeals Officer, where an appeal is to proceed, shall send a copy of the notice of appeal to the respondent and to the Minister of Munitions.

Chairman's Report.

10. (i) The Appeals Officer, when he has received a notice of appeal or a notice of application for leave to appeal, shall, where the Judge so directs, send to the Chairman a copy of the notice, and thereupon the Chairman shall furnish to the Appeals Officer a copy of the complaint or of the notice to appear before the Munitions Tribunal, together with a report in triplicate setting out the names and addresses of the parties, the evidence in the case, the facts as found by the Tribunal, and the grounds of the decision, or such of the above-mentioned matters as the Judge may require, and shall deal in his report with the appellant's case generally, or with any point arising thereon; and either party may obtain a copy of the Chairman's report on application to the Appeals Officer.

(ii) The Judge may, if he thinks it necessary or expedient, require the Chairman who has furnished a report to the Appeals Officer to furnish a further report in such manner as the Judge may direct, and the Chairman shall thereupon comply with the direction.

Determination of Appeal.

11. The Judge shall hear and determine every appeal in open court, except where the appeal is dismissed summarily or where with the written consent of both parties he thinks it expedient to determine an appeal upon the materials before him without requiring either party to appear or to furnish further evidence or argument: provided that the decision on every appeal shall, except where the appeal is dismissed summarily, be given in open court.

Notice of Hearing or Determination of Appeal.

12. The Appeals Officer shall, in every case where an appeal is to be heard or determined, at least seven days before the hearing or determination, send to the parties and to the Minister of Munitions a notice of the time and place appointed for the hearing or determination.

Suspension of Penalties Pending Appeal.

13. Where notice of appeal or notice of application for leave to appeal has been duly given, all proceedings for the recovery of any fine or costs imposed upon either party by the Munitions Tribunal shall be suspended until the abandonment, summary dismissal, or final determination of appeal.

Powers of Minister of Munitions.

14. (i) The Minister of Munitions may with the leave of and subject to such conditions as may be imposed by the Judge appear and be heard on the hearing of any appeal; or may

(ii) At any stage of an appeal substitute himself for either party to the proceedings by giving notice in writing to the Appeals Officer and to both parties, and thereupon these rules shall apply as if the Minister of Munitions were appellant or respondent, as the case may be.

It shall be the duty of a party for whom the Minister of Munitions has substituted himself under this rule to furnish to the Minister any information, documents, matters and things in his possession or under his control relating to the proceedings which the Minister may require for the purpose of the proceedings.

Appearance of Parties.

15. Each party may, on hearing of any appeal, appear in person and present his case orally or in writing, or may appear by counsel, or may, in lieu of appearing, send to the Appeals Officer at least two days before the hearing a statement in writing setting forth the arguments in support of

his contention, and such arguments shall be considered by the Judge.

Powers of Judge.

16. The Judge may, on the hearing of any appeal, if he thinks it necessary or expedient—

- (i) sit with two or some other even number of assessors selected by the Judge respectively from an employers' panel and from a workmen's panel constituted in such manner as the Minister of Munitions may direct, and may consult with such assessors ;
- (ii) order the production of any document or other thing relating to the proceedings ; and
- (iii) order any witnesses who would have been compellable witnesses before the Munitions Tribunal to attend and be examined on oath before him, whether they were or were not examined before the Munitions Tribunal ; and
- (iv) exercise for the purpose of the proceedings any other powers which are exercisable by any Judge of the High Court.

Result of Appeal.

17. (i) The Judge may, on the hearing of any appeal, allow or dismiss the appeal, or may order a re-hearing before the Munitions Tribunal, or may make such other order, or may give such directions as he may think just.

(ii) Where the Judge allows an appeal—

- (a) an appellant who has paid the whole or any part of any fine or costs imposed upon him by the Munitions Tribunal, shall be entitled, subject to any order of the Judge, to the return of the sum paid by him ;
- (b) the Judge may impose any fine or make any order which it was competent for the Munitions Tribunal to have imposed or made, and may, if

he thinks fit, direct that his decision shall not invalidate any leaving certificate issued or ordered to be issued by a Munitions Tribunal or any order of a Munitions Tribunal so far as it directs the issue of any leaving certificate.

Any fine imposed by the Judge under this rule shall be paid to the Clerk to the Munitions Tribunal concerned in like manner as if it had been imposed by the Munitions Tribunal, and payment may be enforced as if it were a fine imposed by a Munitions Tribunal, and any order made by the Judge shall be enforced as if it were made by a Munitions Tribunal.

(iii) Where the Judge orders a re-hearing before a Munitions Tribunal—

(a) the Munitions Tribunal and the parties to the proceeding shall have the same rights as if the case had not been previously heard; and

(b) an appellant who has paid the whole or any part of any fine or costs imposed upon him by the Munitions Tribunal shall have the same rights with regard to the recovery thereof as if the Judge had allowed the appeal.

Court Fees.

18. (i) An appellant shall send to the Appeals Officer a fee of two shillings and sixpence upon giving notice of appeal or notice of application for leave to appeal, and a fee of five shillings before the hearing of an appeal.

(ii) The Judge may, if he thinks fit, remit or reduce any fee.

Costs.

19. Costs shall be in the absolute discretion of the Judge, who may order costs to be paid by any party or parties to the proceedings in such manner as he shall direct, and may either assess the amount thereof himself or may refer the same for assessment to any other person appointed

by him for the purpose. An order for costs may be enforced in the same way as a fine under these rules.

Notifying Result of Appeal.

20. The Appeals Officer shall upon the final determination of an appeal, notify to the Munitions Tribunal concerned and to the Minister of Munitions, and to the parties if they were not present at the hearing thereof, the decision of the Judge.

Effect of Decision.

21. The decision of the Judge on any appeal shall be binding on all Munitions Tribunals in England and Wales, and there shall be no appeal from such decision.

Remedies for Non-Compliance.

22. Non-compliance on the part of either party with these rules, or with any rule of practice for the time being in force under the Acts, shall not prevent the further prosecution or defence of the appeal if the Judge considers that justice can be done, and subject to such terms as the Judge may impose.

MUNITIONS TRIBUNALS RULES.

SCOTLAND.

Order No. 108,
s. 8, 24th Feb.,
1916.

1. There shall be two classes of Munitions Tribunals, that is to say, Munitions Tribunals of the first class (hereinafter referred to as "General Munitions Tribunals") and Munitions Tribunals of the second class (hereinafter referred to as "Local Munitions Tribunals"), and these Rules shall apply both to General and to Local Munitions Tribunals, except so far as they are expressly confined to Tribunals of a particular class.

2. A Munitions Tribunal shall consist of a person (hereinafter referred to as "the Chairman") appointed for the purpose by the Minister of Munitions, sitting with two or some other even number of assessors.

Provided that in the unavoidable absence or incapacity of the chairman a deputy may be appointed to act in his place.

3. Of the assessors, one-half shall be chosen from a panel constituted by the Minister of Munitions of persons representing employers, and the other half shall be chosen from a panel constituted by the Minister of Munitions of persons representing workmen.

4. In the case of General Munitions Tribunals the panels may be constituted either generally or for any divisions specified by the Minister of Munitions. In the case of Local Munitions Tribunals different panels shall be constituted for the several districts for which Local Munitions Tribunals are established.

5. Where the person or persons by or on behalf of whom or against whom a complaint is made is or are a female worker, or two or more female workers, the assessor or one of the assessors chosen from the panel of persons representing workmen shall be a woman.

6. A General Munitions Tribunal shall have jurisdiction to deal with all offences under the Munitions of War Act, 1915 (which Act, as amended by the Munitions of War (Amendment) Act, 1916, is hereinafter referred to as "the Act"), not being offences which by the Act are punishable under the Summary Jurisdiction Acts, and with all other matters therein specified, but shall not deal with any matter with which a Local Munitions Tribunal is competent to deal unless such matter arises in connection with a matter with which a Local Munitions Tribunal is not competent to deal or is for any reason referred to a General Munitions Tribunal by the Minister of Munitions, or is transferred under these rules from a Local Munitions Tribunal to a General Munitions Tribunal.

7. A Local Munitions Tribunal shall have jurisdiction to deal only with complaints—

- (a) That a person has acted in contravention of or failed to comply with regulations made applicable to

- the controlled establishment in which he is either an employer or is employed; or
- (b) That a workman has acted in contravention of or failed to comply with an undertaking to which section 6 of the Act applies; or
- (c) That an employer has unreasonably refused or neglected to issue a certificate under section 7 of the Act; or
- (d) That a person has been guilty of any offence which by the Munitions of War (Amendment) Act, 1916, or by any rules made thereunder, is made an offence under the Act, being an offence for which the maximum fine does not exceed five pounds.
- (e) That less than a week's notice or wages in lieu of notice have been given in cases where such notice or wages in lieu of notice are required by section 5 (3) of the Munitions of War (Amendment) Act, 1916, to be given.

8. Any complaint under the Act shall be made in writing to the Chairman of the Munitions Tribunal appointed for the division or district in which the matter arises, or to some other person appointed by him for the purpose, and may be made by or on behalf of any person aggrieved or the Minister of Munitions.

Order No. $\frac{72}{s. 7}$
16th Jan.,
1917.

Provided that nothing in this rule shall be construed as limiting the jurisdiction of a Munitions Tribunal, whether Local or General, so as to prevent such Tribunal trying a complaint as respect any matter which may have arisen outside the division or district of the Tribunal, and no plea that any matter did not arise in the division or district of the Tribunal before which the complaint is made shall be heard save with the consent of the Chairman of the Tribunal; but a Munitions Tribunal shall not try any complaint when the matter of the complaint arises within the division or district of some other Munitions Tribunal unless the complaint has been transferred to that Tribunal in accordance with these rules.

9. One complaint may include two or more defenders.

10. The Chairman of a Local Munitions Tribunal may at any time before the hearing transfer the complaint to any other Local Munitions Tribunal if he is satisfied that it could be more conveniently tried by such other Tribunal, and may with the consent of the Minister of Munitions transfer any complaint to a General Munitions Tribunal.

11. Where the complaint relates to an offence under the Act:—

- (i) The Chairman, or some other person appointed for the purpose by the Chairman, shall (if satisfied that there is a relevant case) issue to and cause to be served on the person or persons in respect of whom the complaint is made, a notice to appear before the Tribunal at such place and time as the Chairman may appoint.
- (ii) The Chairman, or some other person appointed as aforesaid shall cause to be served on the person who has made the complaint notice of the time and place of the hearing.
- (iii) No person shall be fined for an offence under the Act unless he has appeared or has been represented before the Tribunal or the Tribunal is satisfied that he has had a reasonable opportunity of so appearing.
- (iv) The Tribunal shall for the purpose of adjudicating upon any such complaint have power to take evidence upon oath.
- (v) The provisions of the Summary Jurisdiction (Scotland) Act, 1908, with regard to the citation and apprehension of witnesses shall apply in like manner as if a Munitions Tribunal were a Court of Summary Jurisdiction.
- (vi) Proceedings before a Munitions Tribunal shall be conducted summarily *viva voce*, and, subject to the provisions of Rule 22, no record need be kept

of the proceedings other than the complaint and the finding or order of the Tribunal. Any finding, order, or warrant of the Tribunal may be signed either by the Chairman or by the Clerk to such Tribunal.

- (vii) Where a fine has been imposed on a person employed or a workman by a Munitions Tribunal, that Tribunal may make an order requiring such deductions to be made on account of the fine from the wages of such person employed or workman as the Tribunal think fit and requiring the person by whom the wages are for the time being paid to pay to the Clerk to the Tribunal or other person appointed for the purpose by the Minister of Munitions any sums so deducted, and any sum so payable shall be recoverable in like manner as a fine imposed by the Tribunal; where the person on whom the fine has been imposed leaves the employment of any person to whom the order relates, the last mentioned person shall forthwith give notice thereof to the clerk or other person to whom the deductions are payable.
- (viii) The finding and order of a Munitions Tribunal imposing a fine, or a copy thereof certified by the clerk, shall be a sufficient warrant for the recovery by civil diligence of such fine, and such diligence may be executed in the same manner as if the proceedings were on an extract decree of the Sheriff's Small Debt Court.
- (ix) Sections 19, 22, 25 (so far as relating to service out of Scotland), 30, 35, 36, 38, 39, 42, 46, and 55 of the Summary Jurisdiction (Scotland) Act, 1908, shall apply with the necessary modifications to proceedings before a Munitions Tribunal as if such proceedings were proceedings under that Act, the Tribunal were a Court of Summary Jurisdiction, the person by whom the complaint is made or his representative were a

prosecutor in the public interest in such court, the Clerk to the Tribunal were the clerk of such court, and the notice referred to in sub-clause (i) of this Rule were a complaint under the said Act.

12. Where the complaint relates to the refusal or neglect by an employer to issue a certificate under section 7 of the Act, or is made under subsection (2) or subsection (3) of section 5 of the Munitions of War (Amendment) Act, 1916, or the rules made under that section:—

- (i) The Chairman or some other person appointed by the Chairman for the purpose shall (if satisfied that there is a *prima facie* case) issue to and cause to be served on the person or persons in respect of whom the complaint is made, a notice to appear before the Tribunal at such place and time as the Chairman may appoint.

Provided that if any person in respect of whom complaint is made is unable or unwilling to attend at the hearing of the case he may send to the Chairman a statement in writing signed by him of the facts of the case and of any grounds upon which he desires to oppose the issue of a certificate, and any such statement shall be considered by the Tribunal.

- (ii) No order shall be made against any person under any of the said enactments unless he has appeared or has been represented before the Tribunal, or the Tribunal is satisfied that he has had a reasonable opportunity of so appearing.
- (iii) Notice of the time and place of sitting of the Local Munitions Tribunal to which the complaint will be reported or referred shall be served on the person by whom the complaint was made so that it would reach him in the ordinary course of post not less than 24 hours before the sitting of the Tribunal, and such person shall be entitled

to attend such sitting during the consideration of his case;

Provided that—

- (a) With the consent of such person the case may be considered by the Tribunal notwithstanding that notice has not been served on him in accordance with this rule; and
 - (b) if such person is unable or unwilling to attend at the hearing of the case he may send to the Chairman a statement in writing signed by him of the facts of the case and of any grounds upon which he desires to urge the issue of a certificate and any such statement shall be considered by the Tribunal.
- (iv) In any case in which the Chairman certifies that the evidence of any person was necessary to the decision of the case, expenses in respect of such attendance may be allowed on a scale approved by the Treasury, but subject as aforesaid, expenses will not in any case be allowed to witnesses nor, except in cases to which the proviso to Rule 17 applies, may expenses be awarded.
 - (v) An order by a Munitions Tribunal for the payment of a sum of money, or a copy of such order certified by the clerk, shall be a sufficient warrant, for the recovery by civil diligence of such sum, and such diligence may be executed in the same manner as if the proceedings were on an extract decree of the Sheriff's Small Debt Court.
 - (vi) In determining whether the grant of a certificate has been unreasonably refused a Munitions Tribunal shall take into consideration the question whether the workman has left or desires to leave his work for the purpose of undertaking any class of work in which his skill or other personal

qualifications could be employed with greater advantage to the national interests, and whether the employer has failed to observe the conditions laid down in the fair wages clauses required by resolution of the House of Commons to be inserted in Government contracts, and whether the workman has left or desires to leave his work because he has recently completed a term of apprenticeship or period of learning his trade or occupation and desires to obtain the full standard rate of wages applicable to fully qualified workmen in his trade or occupation.

- (vii) Where a Munitions Tribunal orders the issue of a certificate by an employer, the Tribunal may order that, in the event of failure or neglect to comply with such order, the employer shall forfeit for each day of such failure or neglect any sum not exceeding one pound, and such sum may be recovered by civil diligence in like manner as a fine.

Order No. $\frac{315}{s. 22}$
18th May,
1916.

- (viii) Where a Munitions Tribunal dismisses the complaint on the ground that the workman is free to accept other employment without holding a certificate because he was not employed in an establishment to which the provisions of section 7 of the Munitions of War Act, 1915, were for the time being applied by an order made thereunder, the Tribunal shall enter on its register of complaints the ground on which the complaint was dismissed, the names of the parties, the description and situation of the place of employment and the date on which the workman left or was discharged or dismissed from the employment; and may, at the request of the person by or on behalf of whom the complaint was made, issue to such person a copy of such entry certified under the hand of the Clerk to the Tribunal.

Order No. 718,
s. 46, 2nd Oct.,
1916.

134 MUNITIONS TRIBUNALS RULES.

13. No case shall be heard, tried or adjudged by a Munitions Tribunal except in open Court.

14. A Munitions Tribunal may from time to time adjourn the hearing of any case pending before it, but where a hearing is so adjourned notice of the time and place of this adjourned hearing shall, unless communicated to the parties at the time of the adjournment, be sent to the parties so as to reach them in the ordinary course of post not less than 24 hours before the adjourned hearing.

15. The Chairman, before giving his decision, shall consult with the assessors, and in all cases where the assessors are agreed he shall, except as respects questions which appear to the Chairman to be questions of law, give effect to their opinion in his decision.

Order No. 72
16th Jan., s. 7
1917.

16. Proceedings before a Munitions Tribunal in respect of any complaint may be conducted by the party by whom and the party in respect of whom such complaint is made, or by any persons duly authorised by such parties, provided that no party to any proceedings before a Local Munitions Tribunal may be represented by counsel or by a solicitor.

17. Subject to the provisions of paragraph (iv) of Rule 12, the question of expenses shall be in the absolute discretion of the Chairman, who may order the same to be paid by any party or parties to the proceedings in such manner as he shall direct, and may either assess the amount thereof himself or may refer the same for assessment to any other person appointed by the Minister of Munitions for the purpose.

Provided that where a Munitions Tribunal dismisses any case and it appears to the Tribunal that the proceedings were vexatious or frivolous, the Tribunal shall, unless it sees good cause to the contrary, award expenses to the person against whom the complaint is made, and the expenses so awarded shall, unless the Tribunal sees good cause to the contrary, include such sum for the expenses, trouble and loss of time incurred in or incidental to the attendance of the person against whom the complaint is made before

the Tribunal as to the Tribunal may seem just and reasonable.

18. An order for expenses may be enforced by a Munitions Tribunal in the same manner as a fine.

19. A notice required or authorised under these Rules to be served may be forwarded by registered post addressed to the person on whom it is to be served at his last known place of abode or at any place where he carries on business, and if so forwarded shall be deemed to have been duly served.

20. The Minister of Munitions shall appoint for each Tribunal a clerk.

21. All fines imposed by a Munitions Tribunal shall be paid to the clerk of the Tribunal who shall, through the Minister of Munitions, pay into the Exchequer all fines received by him.

22. The Chairman of a Munitions Tribunal shall keep a note of the evidence given in proceedings before the Tribunal.

23. Every Munitions Tribunal shall keep a register of complaints made to, and proceedings taken by the Tribunal under the Act, and shall furnish the Minister of Munitions with duplicates thereof when required by him to do so.

24. Subject as aforesaid, the procedure of a Munitions Tribunal and the forms to be used for the purposes of proceedings before a Munitions Tribunal, shall be such as the Secretary for Scotland or the Minister of Munitions may determine.

25. The Interpretation Act, 1889, shall apply for the purpose of the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

26. The Munitions Tribunals (Scotland) Rules, 1915, are hereby revoked, but nothing in this revocation shall affect the validity of any order or complaint made or process

issued under the Rules so revoked, but every such order, complaint or process shall have effect as if made or issued under these Rules.

27. These Rules may be cited as the Munitions Tribunals (Scotland) Rules, 1916, and shall come into force as from the twenty-eighth day of February, 1916.

APPEAL RULES—SCOTLAND.

Interpretation of Rules.

Order No. $\frac{179}{s. 10}$
10th March,
1916.

1. These Rules may be cited as the Munitions Tribunals (Appeal) (Scotland) Rules, 1916.

2. The expression "the Acts" shall mean the Munitions of War Acts, 1915 and 1916.

The expression "the Judge" shall mean the Judge of the Court of Session appointed by the Lord President for the purpose of hearing appeals from Munitions Tribunals.

Right of Appeal.

3.—(i) Any person aggrieved by any decision of a Munitions Tribunal may appeal to the Judge against that decision:—

(a) on any ground of appeal which involves a question of law alone; or

(b) with the leave of the Judge or with the written permission of the Chairman of the Munitions Tribunal (in these Rules referred to as the Chairman) on any ground which involves a question of mixed law and fact.

(ii) The Chairman may, after pronouncing the decision of the Tribunal, of his own accord or at the request of either party to the proceeding, in any case in which he considers it desirable so to do, reserve a case upon any question of law, or any question of mixed law and fact, which shall have arisen in the course of the proceeding, for the consideration of the Judge.

Appeals Officer.

4. There shall be an Appeals Officer of Munitions Tribunals (in these Rules referred to as the Appeals Officer) who shall be appointed by the Lord President.

Notices of Appeal.

5.—(i) Every person who desires to appeal or to obtain the leave of the Judge to appeal against any decision of a Munitions Tribunal shall give notice in writing to the Clerk thereof and shall send notice of appeal, or notice of application for leave to appeal, to the Appeals Officer, within seven days of the date of the decision :

Provided that the Judge may, in his discretion, grant an extension of time within which such notice shall be given.

(ii)—(a) Every notice of appeal or notice of application for leave to appeal may be written, type-written, or printed, and shall contain a statement of—

- (1) the names and addresses of both parties to the proceedings before the Munitions Tribunal ; and
- (2) the place where the Tribunal sat ; and
- (3) the name of the Chairman ; and
- (4) the date of the decision ; and
- (5) the substance of the decision ; and
- (6) the question or questions of law, or of mixed law and fact, which are the grounds of the appeal ; and
- (7) the material facts of the case.

(b) In every case where the Chairman has given his written permission to appeal, the written permission shall be attached by the appellant to his notice of appeal.

(iii)—(a) Every notice of appeal, or notice of application for leave to appeal, shall be signed by the appellant himself, except under the provisions of paragraphs (c) and (d) of this Rule.

All notices or other documents required or authorised to be given, for the purposes of these Rules, to the Judge, shall be

addressed to "The Appeals Officer of Munitions Tribunals, Parliament House, Edinburgh."

(b) Where an appellant is unable to write, he may affix his mark to any notice in the presence of a witness, who shall attest the same, and thereupon such notice shall be deemed to be duly signed by such appellant.

(c) In the case of a body corporate, where by these Rules any notice is required to be signed by the appellant himself, it shall be sufficient compliance therewith if such notice is signed by the secretary, clerk, manager or solicitor of such body corporate.

(d) In the case of the Minister of Munitions, it shall be sufficient compliance with these Rules if such notice purports to be signed by any person duly authorised by the Minister in that behalf.

(iv) Any notice or other document which is required or authorised by these Rules to be given or sent shall be deemed to be duly given or sent if forwarded by registered post, addressed to the person to whom such notice or other document is required or authorised to be given or sent.

6. Where the Judge has, on a notice of application for leave to appeal, given leave to appeal, it shall not be necessary for the appellant to give any notice of appeal, but the notice of application for leave to appeal shall in such case be deemed to be a notice of appeal.

Abandonment of Appeal.

7. An appellant at any time after he has duly sent notice of appeal or notice of application for leave to appeal may, subject to such order as to expenses as may be made by the Judge, abandon his appeal by giving notice of abandonment thereof to the Appeals Officer, and the Appeals Officer shall thereupon give notice to the Clerk to the Munitions Tribunal.

Summary Dismissal of Appeal.

8.—(i) If it appears to the Judge that any notice of appeal purporting to be on a ground which involves a question of

law alone, or any application for leave to appeal, does not show any substantial ground of appeal, he may dismiss or refuse it summarily, and without reference to either party.

(ii) When the Judge has dismissed an appeal summarily, or has refused an application for leave to appeal the Appeals Officer shall give notice to the Clerk to the Munitions Tribunal concerned and to the appellant of the decision of the Judge in relation thereto, and in every such case the decision of the Munitions Tribunal shall be deemed to have been confirmed by the Judge.

Statement of Respondent.

9. The Appeals Officer, where an appeal is to proceed, shall send a copy of the notice of appeal to the respondent and to the Minister of Munitions, and thereupon the respondent shall furnish to the Judge within seven days a written statement of the facts and contentions of law on which he intends to rely.

Chairman's Report.

10.—(i) The Appeals Officer, when he has received a notice of appeal or a notice of application for leave to appeal, shall, subject to Rule 8, request the Chairman of the Munitions Tribunal who tried the case to furnish him with a report setting out the names and addresses of the parties and witnesses, the evidence in the case, the facts as found by the Munitions Tribunal and the grounds of their decision; and the Chairman shall thereupon comply with the request.

(ii) When the Appeals Officer shall request the Chairman to furnish a report under these Rules he shall send to the Chairman a copy of the notice of appeal or notice of application for leave to appeal to enable the Chairman to deal in his report with the appellant's case generally or with any point arising thereon.

(iii) The report of the Chairman shall be for the use of the Judge, and, except by direction of the Judge, shall not, nor shall any part thereof, be furnished to any other person.

Statement of Case Reserved.

11. The Chairman, where he reserves any case for the consideration of the Judge, shall within seven days of the date of the decision send to the Appeals Officer a written statement of the case, signed by him, setting out the names and addresses of the parties, the question or questions reserved and such facts only as raise the question or questions reserved, and shall at the same time send a copy to each party and to the Minister of Munitions; and thereupon each party shall furnish to the Judge within seven days a written statement of the facts and contentions of law on which he intends to rely.

Further Report by Chairman.

12. The Judge may, if he thinks it necessary or expedient, require the Chairman who has furnished a report or a statement of a case reserved to the Appeals Officer under these Rules, to furnish a further report or fuller statement of the case in such manner as the Judge may direct, and the Chairman shall thereupon comply with the direction.

Determination of Appeal.

13. The Judge shall hear every appeal or case reserved in open Court except where the appeal is dismissed summarily or where with the written consent of both parties he thinks it expedient to determine an appeal upon the materials before him without requiring either party to appear or to furnish further evidence or argument.

Notice of Hearing or Determination of Appeal.

14. The Appeals Officer shall, in every case where an appeal or case reserved is to be heard, at least seven days before the hearing thereof, send to the parties and to the Minister of Munitions a notice of the time and place appointed for the hearing.

Suspension of Penalties Pending Appeal.

15. Where notice of appeal or notice of application for leave to appeal has been duly given, or where a case has

been reserved, all proceedings for the recovery of any fine or costs imposed upon either party by the Munitions Tribunal shall be suspended until the final determination of the appeal or case reserved.

Powers of Minister of Munitions.

16. The Minister of Munitions may (i) with the leave of and subject to such conditions as may be imposed by the Judge appear and be heard on the hearing of any appeal, or (ii) at any stage of an appeal or case reserved, substitute himself for either party to such appeal or case reserved, by giving notice in writing to that effect to the Appeals Officer and to both parties.

It shall be the duty of a party for whom the Minister of Munitions has substituted himself under this Rule to furnish to the Minister any information, documents, matters and things in his possession or under his control relating to the proceedings which the Minister may require for the purpose of the appeal or case reserved.

Adjournment of Appeals.

17. The Judge may, in his discretion, adjourn the hearing of any appeal or case reserved, and in every case where the hearing thereof is so adjourned for more than two days the Appeals Officer shall, at least two days before the adjourned hearing, intimate to the parties and to the Minister of Munitions the time and place appointed for such adjourned hearing.

Appearance of Parties.

18. Each party may, on the hearing of any appeal or case reserved, appear in person and present his case orally or in writing, or may appear by counsel, or with the consent of the Judge by any person authorised in writing by the party, or may, in lieu of appearing, send to the Appeals Officer at least two days before the hearing thereof a statement in writing setting forth the arguments in support of his contention, and such arguments shall be considered by the Judge

Powers of Judge.

19. The Judge may, on the hearing of any appeal or case reserved, if he thinks it necessary or expedient—

- (i) sit with two or some other even number of assessors appointed in such manner as the Minister of Munitions may direct respectively from an employers' panel and from a workmen's panel constituted under the Acts, and may consult with such assessors and act upon their opinion so far as he thinks fit to adopt it; and
- (ii) order the production of any document or other thing relating to the proceedings; and
- (iii) order any witnesses who would have been compellable witnesses before the Munitions Tribunal to attend and be examined on oath before him, whether they were or were not examined before the Munitions Tribunal; and
- (iv) exercise in relation to the proceedings any powers which may be exercised in civil or criminal matters by any Judge of the Court of Session or High Court of Justiciary.

Result of Appeal.

20.—(i) The Judge may, on the hearing of any appeal or case reserved, confirm or reverse the decision of the Munitions Tribunal, or may send the case back to the Munitions Tribunal to be re-tried, or may make such other order as he may think just.

(ii) Where the Judge confirms the decision of the Munitions Tribunal, such decision shall have effect as if there had been no appeal or case reserved.

(iii) Where the Judge reverses the decision of the Munitions Tribunal—

- (a) an appellant who has paid any fine or expenses imposed upon him by the Munitions Tribunal, or any

part thereof, shall be entitled, subject to any order of the Judge, to the return of the sum or any part thereof so paid by him;

- (b) the Judge may impose any fine or issue a leaving certificate or make any order which it was competent for the Munitions Tribunal to have imposed or made.

Any fine imposed by the Judge under this Rule shall be paid to the Clerk of the Munitions Tribunal concerned in like manner as if such fine had been imposed by the Munitions Tribunal, and payment thereof may be enforced in the same manner and subject to the same provisions as payment of fines imposed by Munitions Tribunals under the Acts may under the law for the time being be enforced.

(iv) Where the Judge sends the case back to the Munitions Tribunal to be re-tried—

- (a) the Munitions Tribunal and the parties to the proceeding shall have on such re-trial the same rights in all respects as if the case had not been previously tried, any law or custom of Scotland to the contrary notwithstanding; and
- (b) an appellant who has paid the whole or any part of any fine or expenses imposed upon him by the Munitions Tribunal or any part thereof, shall have the same rights with regard to the recovery thereof as if the Judge had reversed the decision of the Munitions Tribunal.

Expenses.

21. The question of expenses shall be in the absolute discretion of the Judge, who may order the same to be paid by any party or parties to the proceedings in such manner as he shall direct, and may either assess the amount thereof himself or may refer the same for assessment to any other person appointed by him for the purpose. An order for expenses may be enforced in the same way as a fine under these Rules.

Notifying Result of Appeal.

22. The Appeals Officer shall, on the final determination of an appeal or case reserved, notify to the Munitions Tribunal concerned and to the Minister of Munitions, and to the parties if they were not present at the hearing thereof, the decision in relation thereto.

Remedies for Non-Compliance.

23. Non-compliance on the part of either party with these Rules or with any rule of practice for the time being in force under the Acts, shall not prevent the further proceedings in the appeal if the Judge considers that the same may be waived or remedied by amendment or otherwise.

The Judge may in such manner as he thinks right direct the party to remedy such non-compliance, and thereupon the appeal may proceed. The Appeals Officer shall forthwith notify to the party any directions given by the Judge under this Rule.

APPENDIX V.



ORDERING OF WORK REGULATIONS.

APPENDIX V.

ABSTRACT OF ORDERING OF WORK REGULATIONS FOR CONTROLLED ESTABLISHMENTS. 1915 Act, s. 4 (5).

1. Owner of establishment to post Rules relating to order, discipline, time-keeping, and efficiency "conspicuously in his establishment." Orders No. 106, 18th Feb., 1916; No. ¹²⁷/_{s. 9} 29th Feb., 1916.

2. Rules to be in scheduled form or other form approved by the Minister of Munitions.

3. Workers to comply with Rules. Contravention may be prosecuted as a Munitions Act offence; but no proceedings to be taken for refusal to work on Sunday.

4. Proceedings before a munitions tribunal only to be taken for breach of Rules posted in accordance with Regulations; any other Rules to be so worded as to avoid possibility of confusion with Rules made under the Regulations.

5. Penalty for contravention of Regulations, fine not exceeding £3 for each offence. 1915 Act, s. 14 (d).

6. Rules posted by owner of establishment to be sent to Minister of Munitions. Order No. 671, 8th July, 1915.

7. Penalty not to be imposed if munitions tribunal is satisfied

(a) That the Rule is unreasonable; or

(b) That the worker had just cause for not complying with Rule.

SCHEDULED RULES.

1. Posting of Rules in establishment is notice of their contents to employees.

2. Employees, whether on time, piece, or otherwise, to attend regularly and work diligently during ordinary working hours, and a reasonable amount of overtime if required, unless they have obtained leave of absence, or are prevented by sickness or some other unavoidable cause, which must be immediately reported.

3. No employee to insist, or attempt to insist, on observance by himself or any other employee of any rule, practice, or custom tending to restrict the rate of production on any class of work, or to limit the employment of any class of person, or otherwise tending to restrict production or employment.

4. No employee shall—

(a) Be worse of drink or bring drink into the establishment.

(b) Refuse or neglect to obey lawful orders of any person having authority over him.

(c) Create or take part in disturbance or use abusive language or interfere with or annoy other employees.

(d) Tear down or deface posted Rules or notices.

4A. Holidays or rest days ordered by Minister of Munitions to be observed.

5. These Rules not to affect other shop rules made by owner of establishment or his power to impose fines for breach of such Rules (subject to Truck Acts). But no fine to be imposed under such other Rules for any offence which has been brought before a munitions tribunal.

APPENDIX VI.

ORDERS RELATING TO DILUTION OF LABOUR.

I. FEMALE LABOUR—

1. Women of 18 and over doing Men's work.
2. Girls under 18 doing Men's work.
3. Women and Girls on Aircraft Woodwork.
4. Women and Girls on work not recognised as Men's work.

II. SEMI-SKILLED AND UNSKILLED LABOUR.

APPENDIX VI.

ORDERS RELATING TO DILUTION OF LABOUR.

I. FEMALE LABOUR.

Note.—The orders regulating the employment of women apply to female workers employed on or in connection with munitions work in any establishment of a class to which section 7 of the 1915 Act has been applied by order of the Minister of Munitions. 1916 A
p. 72.

Each order is applicable only to the establishments scheduled in the order, and as the rate of pay vary in different localities and circumstances are constantly changing, owners of establishments employing women should if in doubt inform themselves by inquiry at the Ministry as to what orders their particular establishments are scheduled under.

The existing orders are set out below **subject to these observations—**

1. DIRECTIONS RELATING TO THE EMPLOYMENT AND REMUNERATION OF **Women of 18** YEARS OF AGE OR OVER ON MUNITIONS WORK OF A CLASS WHICH PRIOR TO THE WAR WAS CUSTOMARILY DONE BY **Men of 18** YEARS OF AGE OR OVER IN DISTRICTS WHERE SUCH WORK WAS CUSTOMARILY CARRIED ON.

Order No. 888, 21st Dec., 1916 (embodying and amending Cir. L2 and Orders 181, 411, 586, 704), and Order No. 49 of 24th Jan., 1917.

(NOTE.—(1) *These directions are on the basis of the setting up of the machines being otherwise provided for.*

(2) *These directions are confined to the War period and are subject to the observance of the provisions of Schedule II. of the Munitions of War Act, 1915.*

(3) *Proposals under paragraph 1 (a) (ii) of these directions for advances to classes of women upon the time-rates prescribed by paragraph 1 (a) (i) are proposals for changes in rates of wages within Section 4 (2) of the Munitions of War Act, 1915, and must accordingly be submitted to the Minister of Munitions for his sanction.*)

1.—(a) (i) Women employed on time on work customarily done by men shall, except as provided in paragraphs 1 (a) (ii) and 1 (b) be paid :—

Where the working week is 48 hours, £1.

Where the working week is less than 48 hours, £1 for the working week and for additional hours, if any, worked up to 48.

Where the working week exceeds 48 hours, as follows :—

	£	s.	d.
For 49 hours, - - -	1	0	6
For 50 hours, - - -	1	1	0
For 51 hours, - - -	1	1	6
For 52 hours, - - -	1	2	0
For 53 hours, - - -	1	2	6
For 54 hours, - - -	1	3	0

(a) (ii) Women employed on time, (a) on work of a class customarily done by semi-skilled men, or (b) on work of a specially laborious or responsible nature, or (c) where special circumstances exist shall be paid according to the nature of the work and the ability of the women, but in no case less than the time-rates specified in paragraph 1 (a) (i).

(a) (iii) Overtime, night shift, Sunday and holiday allowances as customarily paid to men, shall be paid to the women to whom paragraphs 1 (a) (i) and 1 (a) (ii) refer. The basis for overtime shall be the working week for women in the establishment in question. For this purpose, the working week for women shall in no case be reckoned as less than 48 hours or more than 54 hours. The rate for overtime for women other than those referred to in paragraph 1 (a) (ii) and 1 (b) shall be computed on the basis of £1 for 48 hours.

(b) (i) Women employed on the work customarily done by fully-skilled tradesmen shall in all cases be paid as from commencement the time-rates of the tradesmen whose work they undertake.

(b) (ii) A woman shall be considered as not employed on the work customarily done by fully-skilled tradesmen, but a part or portion only thereof if she does not do the customary setting up, or when there is no setting up, if she requires skilled supervision to a degree beyond that customarily required by fully-skilled tradesmen undertaking the work in question.

(b) (iii) Women who undertake part or portion only of the work customarily done by fully-skilled tradesmen shall serve a probationary period of three months. The wages of such women for this period shall be reckoned as follows:—

They shall be rated for a period of four weeks at the time-rate of wages to which they are entitled under these directions when employed on time, and from that rate shall then rise from the beginning of the fifth week until the end of the thirteenth week by equal weekly increases to the district time-rate of the fully-skilled tradesman, and shall thereafter be rated at the district rate of the tradesman whose work they are in part or portion undertaking.

(b) (iv) In any case where it is established to the satisfaction of the Minister that additional cost is being incurred by extra setting up or skilled supervision due to the employment of women in place of fully-skilled tradesmen, the rates payable to women under these directions may, with the sanction of the Minister, be subject, for so long as such additional cost is incurred, to deductions not exceeding 10 per cent. to meet such additional cost: Provided that no women shall in any case be paid at lower rates than those prescribed by paragraph 1 (a) (i) of these directions.

(b) (v) No woman shall be called upon to serve more than one probationary period.

(b) (vi) Every woman who has served the probationary

period shall receive from her employer a certificate to that effect.

(b) (vii) Any time immediately before the date on which these directions take effect during which a woman has been employed on part or portion of the work customarily done by fully-skilled tradesmen shall be reckoned in diminution or extinction as the case may be of the probationary period prescribed by these directions.

(b) (viii) The same overtime, night-shift, Sunday and holiday allowances shall be paid to women employed on the work customarily done by fully-skilled tradesmen or part or portion thereof as are customarily paid to the tradesmen. The basis for overtime for such women shall be on the working week for the tradesmen in the establishment in question. For this purpose the working week for such women shall be the same as that of the tradesmen.

2. Where women are prevented from working owing to breakdown, air raids or other causes beyond their control, they shall be paid for the time so lost at three-fourths of their time-rate unless they are sent home.

3. Women shall not be put on piece-work or premium bonus system until sufficiently qualified. The period of qualification on shell work shall not exceed four weeks without the express sanction of the Minister of Munitions.

4. Where women are employed on piece-work they shall be paid the same piece-work prices as are customarily paid to men for the same job.

5. Where women are engaged on premium bonus systems, the time allowed for the job shall be that customarily allowed to men for the same job, and the earnings of the women shall be calculated on the basis of the man's time-rate.

6. Where the job in question has not hitherto been done on piece-work or premium bonus system in the establishment in question, the piece-work price, or the time allowed, shall be based on a similar job previously done by men on piece-work or premium bonus system as the case may be.

7. Where in the establishment in question there are no data from previous operations to enable the parties to arrive at a piece-work price or time to be allowed, the price or the time to be allowed shall be so adjusted that the woman shall receive the same percentage over the time-rate of the class of men customarily employed on the job as such man would have received had he undertaken the job on piece-work or premium bonus system as the case may be.

8. The principle upon which these directions proceed is that on systems of payment by results equal payment shall be made to women as to the men for an equal amount of work done.

9. Piece-work prices and premium bonus basis time shall be fixed by mutual agreement between the employer and the woman or women who perform the work.

10. On piece-work every woman other than a woman to whom paragraph 1 (b) relates shall be guaranteed, irrespective of her piece-work earnings, the time-rate prescribed by paragraph 1 (a) (i), or where special circumstances exist such higher time-rate as the Minister of Munitions may direct. Every woman to whom paragraph 1 (b) relates shall be guaranteed the time-rate prescribed by paragraph 1 (b).

Debit balances shall not be carried forward beyond the usual weekly period of settlement.

11. On premium bonus systems every woman other than a woman to whom paragraph 1 (b) relates shall, in all cases, be paid the time-rate prescribed by paragraph 1 (a) (i), or where special circumstances exist, such higher time-rate as the Minister of Munitions may direct. Every woman to whom paragraph 1 (b) relates shall, in all cases, be paid the time-rate prescribed by paragraph 1 (b).

12. Overtime and night shift and Sunday and holiday allowances shall be paid to women employed on piece-work or premium bonus system on the same conditions as customarily prevail in the case of men for time work.

13. Piece-work prices and premium bonus time allowances, after they have been established, shall not be altered unless the means or method of manufacture are changed.

14. All wages and balances shall be paid to women through the office.

15. For the purpose of these directions, the term "woman" or "women" means a woman or women of the age of 18 years or over, and the term "man" or "men" means a man or men of the age of 18 years or over.

16. Any question which arises as to the interpretation of these directions shall be determined by the Minister of Munitions.

Order No. 703,
28th Sept.,
1916.

Order No. 48,
22nd Jan.,
1917.

2. DIRECTIONS RELATING TO THE EMPLOYMENT AND REMUNERATION OF **Girls under 18** YEARS OF AGE ON **Munitions Work of a Class which, prior to the War, was customarily done by male labour of 18 years of age and over** IN DISTRICTS WHERE SUCH WORK WAS CARRIED ON.

[*Note.*—These directions are on the basis of the setting up of machines being otherwise provided for. They are strictly confined to the war period and are subject to the observance of the provisions of Schedule II. of the Munitions of War Act.]

1. Where girls under 18 years of age are employed on work customarily done by male labour of 18 years of age and over the following rates shall be paid:—

(a) In the case of time-workers of—

17 and under 18 years, 18s. per week, reckoned on the usual working hours of the district in question for men in engineering establishments.

16 and under 17 years, 16s. Ditto.

Under 16 years, 14s. Ditto.

(b) In the case of piece-workers of—

17 and under 18 years, the piecework price paid
or allowed for the work when customarily
done by men, less 10 per cent.

16 and under 17 years, Ditto. less 20 per cent.

Under 16 years, Ditto. less 30 per cent.

2. Where girls are prevented from working owing to breakdown, air raid, or other cause beyond their control, they shall be paid for the time so lost at the rate of three-fourths of their above time-rates, unless they are sent home.

3. Girls shall not be put on piecework or premium bonus systems until sufficiently qualified. The period of qualification on shell work shall not, in general case, exceed three to four weeks.

4. On piecework, each girl's time-rate shall be guaranteed irrespective of her piecework earnings. Debit balances shall not be carried forward beyond the usual weekly period of settlement.

5. On premium bonus systems each girl's time-rate shall in all cases be paid.

6. Overtime and night shift and Sunday and holiday allowances shall be paid to girls employed on piecework or premium bonus systems on the same conditions as now prevail in the case of men in engineering establishments in the district in question for time-work.

7. Piecework prices and premium bonus time allowances, after they have been established, shall not be altered unless the means or method of manufacture are changed.

8. All wages and balances shall be paid to girls through the office.

9. The foregoing rates and conditions shall not operate to prejudice the position of any person who has better terms and conditions, nor prevent employers from recognising special ability or responsibility.

10. Any question which arises as to the interpretation of these recommendations shall be determined by the Minister of Munitions.

Order No. 621,
13th Sept.,
1916.

3. DIRECTIONS RELATING TO THE EMPLOYMENT AND REMUNERATION OF **Women and Girls** ON OR IN CONNECTION WITH **Woodwork Processes for Aircraft.**

(1) Women and girls employed on processes other than machine processes shall for the first 8 weeks of such employment be rated as follows:—

	Per hour.
Women 18 years and over, - -	4d.
Girls 17 years and under 18, - -	3½d.
Girls 16 years and under 17, - -	3d.
Girls under 16 years, - - -	2½d.

(2) Women and girls employed on processes other than machine processes shall, after such period of 8 weeks, be rated as follows:—

	Per hour.
(a) Inspectors and Gaugers:—	
Women 18 years and over, - -	5½d.
Girls 17 years and under 18, - -	5d.
Girls 16 years and under 17, - -	4½d.
Girls under 16 years, - - -	4d.

(b) Workers customarily on time work other than those referred to in paragraph (a) above:—

	Per hour.
Women 18 years and over, - -	5d.
Girls 17 years and under 18, - -	4½d.
Girls 16 years and under 17, - -	4d.
Girls under 16 years, - - -	3½d.

(c) Workers employed on piece-work or premium bonus systems:—

	Per hour.
Women 18 years and over, - -	4½d.
Girls 17 years and under 18, - -	4d.
Girls 16 years and under 17, - -	3½d.
Girls under 16 years, - - -	3d.

(3) Women of 18 years of age and over employed on machine processes shall be rated as follows:—

	Per hour.
For the first 4 weeks of such employment, - - - -	4½d.
For the second 4 weeks of such employment, - - - -	5½d.
On completion of 8 weeks of such employment, - - - -	6½d.

(4) No girl under 18 years of age shall be employed on any machine process.

(5) The appropriate time rate shall in the case of any woman or girl on piece-work or premium bonus systems be guaranteed and paid. Debit balances shall not be carried forward from one week to another.

(6) Overtime allowances shall be paid to women and girls on the following basis, each day standing by itself:—

For the first two hours, - At the rate of time and a quarter.
Thereafter, - - - At the rate of time and a half.

(7) Night-shift allowances shall be paid to women and girls on the basis of time and a quarter for all hours worked.

(8) Sunday work allowances shall be paid to women and girls on the basis of double time between midnight on Saturday and midnight on Sunday.

(9) Except in cases where they are sent home women and girls on piece-work or premium bonus systems shall, between jobs, be booked on to and paid at their respective time rates, and women and girls who are prevented from working owing to breakdown, air raid, or other cause beyond their control shall be paid for the time so lost at the rate of three-fourths of their respective time rates. This provision, however, shall not apply in cases where machines are stopped in the usual course of operations for setting up, replacement or grinding of tools, or similar reasons.

(10) Piece-work prices and premium bonus basis times shall be fixed by mutual agreement between the employer

and the worker or workers who perform the work and shall be such as to enable a woman or girl of average ability to earn at least 33½ per cent. over her time rate.

(11) Piece-work prices and premium bonus basis times, after they have been established, shall not be altered unless the means or method of manufacture are changed.

(12) All wages and balances shall be paid to women and girls through the office.

(13) The above rates and conditions shall be recognised as war rates and conditions, and as due to and depending on the exceptional conditions resulting from the present war.

(14) The foregoing rates and conditions shall not operate to prejudice the position of any person who has better terms and conditions, nor to prevent the recognition of special ability or responsibility.

(15) Any question which arises as to the interpretation of these provisions shall be determined by the Minister of Munitions.

Order No. 9,
6th Jan., 1917,
embodying
and amending
Orders 447,
618, 759.

4. DIRECTIONS RELATING TO THE REMUNERATION OF WOMEN AND GIRLS ON MUNITIONS WORK OF A CLASS WHICH PRIOR TO THE WAR **was not recognised as Men's Work** IN DISTRICTS WHERE SUCH WORK WAS CUSTOMARILY CARRIED ON.

1. Where women or girls are engaged on munitions work of a class which prior to the war was not recognised as men's work in districts where such work was customarily carried on, the time-rates for piece-workers and premium bonus workers shall be as follows:—

	Per hour.
Workers 18 years and over, - -	4d.
Workers 17 years and under 18, -	3½d.
Workers 16 years and under 17, -	3d.
Workers 15 years and under 16, -	2½d.
Workers under 15 years, - - -	2d.

2. The rates for such women and girls when customarily on time shall be as follows:—

	Per hour.
Workers 18 years and over, - -	4½d.
Workers 17 years and under 18, -	4d.
Workers 16 years and under 17, -	3½d.
Workers 15 years and under 16, -	3d.
Workers under 15 years, - - -	2½d.

3. Women and girls in danger zones shall be paid ½d. per hour in addition to the above rates. Allowances for other processes which are dangerous or injurious to health will be decided on the merits of such cases.

4. In an establishment in which a custom prevailed prior to the war of differentiating between the rates of wages paid to women and girls employed in warehouses and those otherwise employed, an application may be made to the Minister of Munitions for special directions as to the rates of wages to be paid to women and girls employed in warehouses. -

5. Women and girls may be rated at ½d. per hour less than their appropriate time-rate under these directions for probationary periods not exceeding:—

In the case of workers of 18 years and over, -	1 month.
In the case of workers of 16 years and under	
18, - - - - -	2 months.
In the case of workers under 16 years, - -	3 months.

Such probationary periods shall be reckoned from the date when women or girls are first employed, and no woman or girl shall be called upon to serve more than one probationary period.

6. The appropriate time-rate shall, in the case of any woman or girl on piece-work, be guaranteed irrespective of her piece-work earnings. Debit balances shall not be carried forward from one week to another.

7. On premium bonus systems every woman's and girl's appropriate time-rate shall in all cases be paid.

8. Women or girls shall not be put on piece-work or premium bonus systems until sufficiently qualified. The period of qualification should not generally exceed four weeks.

9. Additional payment in respect of overtime, night shift, Sunday, or holiday work shall be made to women and girls employed on munitions work of a class which, prior to the war, was not recognised as men's work in districts where such work was customarily carried on. Such additional payments shall be made in accordance with the custom of the establishment for the class of workpeople concerned in cases where such a custom exists. Where no custom providing for such additional payment exists in the establishment, such additional payments shall be made at the rates and on the conditions prevailing in similar establishments or trades in the district. Where there are no similar establishments or trades in the district, the rates and conditions prevailing in the nearest district in which the general industrial conditions are similar shall be adopted. In the absence of any custom prevailing in the establishment, or in the district, or elsewhere, such additional payments shall be made at such rates and on such conditions as the Minister of Munitions may direct.

10. Piece-work prices and premium bonus basis times shall be such as to enable a woman or girl of ordinary ability to earn at least $33\frac{1}{3}$ per cent. over her time-rate, except in the case of an establishment where an application that this provision should be dispensed with either generally or as regards any particular class of workpeople has been approved by the Minister of Munitions.

11. The above rates and conditions shall be recognised as war rates and conditions, and as due to and depending on the exceptional circumstances resulting from the present war.

12. The position of any person or persons whose existing rates of remuneration exceed the rates herein prescribed, shall not be prejudiced by this Order either by a reduction in existing rates or by replacement by another person or

other persons at lower rates, nor shall employers be prevented from recognising special ability or responsibility.

13. For the purpose of this Schedule the term "men" means males of 18 years of age and over.

14. Any question which arises as to the interpretation of these provisions shall be determined by the Minister of Munitions.

5. DIRECTIONS RELATING TO THE REMUNERATION OF WOMEN AND GIRLS ON MUNITIONS WORK OF A CLASS WHICH PRIOR TO THE WAR **was not recognised as Men's Work** IN DISTRICTS WHERE SUCH WORK WAS CUSTOMARILY CARRIED ON.

Order No. 10,
6th Jan., 1917,
embodying
and amending
Orders 447,
618, 759.

1. Where women or girls are engaged on munitions work of a class which prior to the war was not recognised as men's work in districts where such work was customarily carried on, the time-rates for piece-workers and premium bonus workers shall be as follows:—

	Per hour.
Workers 18 years and over, -	- 3 $\frac{3}{4}$ d.
Workers 17 years and under 18, -	- 3 $\frac{1}{4}$ d.
Workers 16 years and under 17, -	- 2 $\frac{3}{4}$ d.
Workers 15 years and under 16, -	- 2 $\frac{1}{4}$ d.
Workers under 15 years, - -	- 1 $\frac{3}{4}$ d.

2. The rates for such women and girls when customarily on time shall be as follows:—

	Per hour.
Workers 18 years and over, -	- 4 $\frac{1}{4}$ d.
Workers 17 years and under 18, -	- 3 $\frac{3}{4}$ d.
Workers 16 years and under 17, -	- 3 $\frac{1}{4}$ d.
Workers 15 years and under 16, -	- 2 $\frac{3}{4}$ d.
Workers under 15 years, - -	- 2 $\frac{1}{4}$ d.

3. Women and girls in danger zones shall be paid $\frac{1}{2}$ d. per hour in addition to the above rates. Allowances for other processes which are dangerous or injurious to health will be decided on the merits of such cases.

4. In an establishment in which a custom prevailed prior to the war of differentiating between the rates of wages paid to women and girls employed in warehouses and those otherwise employed, an application may be made to the Minister of Munitions for special directions as to the rates of wages to be paid to women and girls employed in warehouses.

5. Women and girls may be rated at $\frac{1}{2}$ d. per hour less than their appropriate time-rate under these directions for probationary periods not exceeding:—

In the case of workers of 18 years and over, - 1 month.

In the case of workers of 16 years and under

18, - - - - - 2 months.

In the case of workers under 16 years, - - 3 months.

Such probationary periods shall be reckoned from the date when women or girls are first employed, and no woman or girl shall be called upon to serve more than one probationary period.

6. The appropriate time-rate shall, in the case of any woman or girl on piece-work, be guaranteed irrespective of her piece-work earnings. Debit balances shall not be carried forward from one week to another.

7. On premium bonus systems every woman's and girl's appropriate time-rate shall in all cases be paid.

8. Women or girls shall not be put on piece-work or premium bonus systems until sufficiently qualified. The period of qualification should not generally exceed four weeks.

9. Additional payment in respect of overtime, night shift, Sunday, or holiday work shall be made to women and girls employed on munitions work of a class which, prior to the war, was not recognised as men's work in districts where such work was customarily carried on. Such additional payments shall be made in accordance with the custom of the establishment for the class of workpeople concerned in

cases where such a custom exists. Where no custom providing for such additional payment exists in the establishment, such additional payments shall be made at the rates and on the conditions prevailing in similar establishments of trades in the district. Where there are no similar establishments or trades in the district, the rates and conditions prevailing in the nearest district in which the general industrial conditions are similar shall be adopted. In the absence of any custom prevailing in the establishment, or in the district, or elsewhere, such additional payments shall be made at such rates and on such conditions as the Minister of Munitions may direct.

10. Piece-work prices and premium bonus basis times shall be such as to enable a woman or girl of ordinary ability to earn at least $33\frac{1}{2}$ per cent. over her time-rate, except in the case of an establishment where an application that this provision should be dispensed with either generally or as regards any particular class of workpeople has been approved by the Minister of Munitions.

11. The above rates and conditions shall be recognised as war rates and conditions, and as due to and depending on the exceptional circumstances resulting from the present war.

12. The position of any person or persons whose existing rates of remuneration exceed the rates herein prescribed, shall not be prejudiced by this Order either by a reduction in existing rates or by replacement by another person or other persons at lower rates, nor shall employers be prevented from recognising special ability or responsibility.

13. For the purpose of this Schedule the term "men" means males of 18 years and over.

14. Any question which arises as to the interpretation of these provisions shall be determined by the Minister of Munitions.

II. SEMI-SKILLED AND UNSKILLED LABOUR.

Order No. 589,
7th Sept.,
1916.

Order No. 71,
24th Jan.,
1917.

DIRECTIONS RELATING TO THE EMPLOYMENT AND REMUNERATION OF Semi-skilled and Unskilled Men ON Munitions Work of a class which prior to the War was customarily undertaken by Skilled Labour.

[*Note.*—These Directions are strictly confined to the war period and are subject to the observance of Schedule II. of the Munitions of War Act.]

GENERAL.

1. Operations on which skilled men are at present employed, but which by reason of their character can be performed by semi-skilled or unskilled labour, may be done by such labour during the period of the war.

2. Where semi-skilled or unskilled male labour is employed on work identical with that customarily undertaken by skilled labour, the time rates and piece prices and premium bonus times shall be the same as customarily obtain for the operations when performed by skilled labour.

3. Where skilled men are at present employed they shall not be displaced by less skilled labour unless other skilled employment is offered to them there or elsewhere.

4. Piecework prices and premium bonus time allowances, after they have been established, shall not be altered unless the means or methods of manufacture are changed.

5. Overtime, night shift, Sunday and holiday allowances shall be paid to such machinemen on the same basis as to skilled men.

Time Ratings for the Manufacture of complete shell and fuses and cartridge cases, where not hitherto customary.

SEMI-SKILLED AND UNSKILLED LABOUR. 167

6. Where the manufacture of this class of munitions was not customarily undertaken by the establishment prior to the war, the following time ratings shall apply:—

(a) Semi-skilled and unskilled men of 21 years of age and over, when engaged as machinemen on the above manufacture, shall be paid a time rate of 10s. per week lower than the time rate for turners, including war bonuses, engaged in the engineering trade of the district, but in no case shall the rate paid to such men be less than 28s. per week of the normal district hours. This rate also includes all war bonuses already granted.

(b) Where a semi-skilled or unskilled man of 21 years of age and over has had no experience previously of the operation he is called upon to perform, his starting rate shall be 26s. per week, which shall be paid during his period of training, but such period shall not exceed two months from the date at which he commenced work as a machineman.

(c) The time rates payable to setters up shall be not less than as follows:—

Setting up of fuse-making machines, 10s. per week over the current district time rate for turners.

Setting up of shell-making machines, 5s. per week over the current district time rate for turners.

These extras are in addition to any war bonuses which have been granted.

INTERPRETATIONS.

7. Any question which arises as to the interpretation of these Directions shall be determined by the Minister of Munitions.

APPENDIX VII.

ORDER RELATING TO
WAR SERVICE BADGES.

APPENDIX VII.

WAR SERVICE BADGES.

The Minister of Munitions is empowered to make rules 1915 Act, s. 8.
regarding badges for munitions workers.

Contravention of such rules makes an offender liable to a 1915 Act, s. 14
penalty not exceeding £50. (c).

The rules made on 29th July, 1915, provide—

(1) The employer of any persons engaged on munitions Order No.
work or other work for war purposes may make application 1000, s. 61,
to the Minister in a form giving the particulars set out in 29th July,
the schedule hereto or such other particulars as the Minister 1915.
may require from time to time for authority to issue war
service badges to such persons in accordance with these
rules.

(2) The Minister may grant such application in respect of
all or any of the persons included therein, and may supply
war service badges to the employer and authorise their issue
by the employer to such persons accordingly (on such con-
dition as he thinks fit).

Provided that he shall not authorise the issue of war
service badges to persons engaged otherwise than in a
Government establishment, unless, having regard to the
occupations in which such persons are employed, he is of
opinion that their removal from their present employment
is likely to prejudice the production, transport, or supply of
Munitions of War, or the successful prosecution of the war.

(3) A person to whom a war service badge has been issued
by his employer in accordance with these rules shall be
entitled to wear the badge only so long as the authority
under which it was issued remains in force and so long as
he remains engaged on munitions work or other work for war

purposes in the service of that employer, and when for any cause he is no longer entitled to wear the badge, he shall forthwith surrender it to his employer.

(4) An employer to whom war service badges have been supplied by the Minister shall be responsible—

- (a) For issuing such badges in accordance with these rules and the authority given by the Minister ;
- (b) For requiring the surrender of any such badge as soon as the person to whom it was issued ceases to be entitled to wear it ;
- (c) For the custody of any such badges supplied to him but not issued or surrendered to him, and for their return to the Minister if so required.

(5) Any authority given by the Minister to any employer to issue war service badges to any person or persons employed by him may be revoked at any time by notice in writing given to the employer.

(6) No person shall make any false statement for the purpose of securing authority to issue, or for the purpose of obtaining, any war service badge. No person shall issue any war service badge to any person except in accordance with these rules and with authority given to him by the Minister, and no person shall wear such badge unless it has been issued to him by his employer in accordance with these rules. And no such badge shall be sold or bought, pawned or accepted in pawn, or otherwise disposed of or received by any person except in so far as duly authorised.

Provided that where a person in good faith wears a war service badge issued to him by his employer, believing himself to be entitled to do so, he shall not be deemed to have acted in contravention of these rules merely on the ground that the badge was wrongfully issued to him by his employer or that he is no longer entitled to wear it.

(7) No person shall, except with the express authority of the Minister, make, sell, issue, or wear any badge similar

in form or appearance to any badge supplied or authorised by the Minister, or any colourable imitation thereof, or any badge, or other distinctive mark calculated or intended to suggest that the wearer thereof is engaged on munitions work or other work for war purposes.

(8) Any person to whom before the date of these rules any badge was issued by or with the express authority of the Admiralty or Army Council may, anything in these rules to the contrary notwithstanding, continue to wear such badge so long as he remains in his present employment, until such date, not being earlier than the thirtieth day of September, as the Minister may determine, either generally or in any particular case or class of cases.

(9) Any war service badge supplied by the authority of the Minister of Munitions in accordance with these rules shall remain the property of the Minister and shall be returned to him at any time if so required by him.

(10) In these rules—

The expression “ Minister ” means “ Minister of Munitions.”

The expression “ war service badge ” means any badge or other distinctive mark authorised by the Minister for the purpose of indicating that the wearer thereof is engaged on munition work or other work for war purposes.

The expression “ Government establishment ” means any establishment owned by the Crown or of which the governing body is appointed by any Government department.

Schedule.

Particulars to be furnished on application for authority to issue war service badges :—

1. Full name and address of person making application.
2. Number of badges applied for.

3. In the case of an application made on behalf of an establishment not being a Government establishment, occupation, and place of employment of each person employed in respect of whom application is made.

See Consolidated Regulations issued to controlled establishments, August, 1916.

APPENDIX VIII.



ORDERS UNDER SECTION 7.

APPENDIX VIII.

ORDERS MADE UNDER SECTION 7 (1), 1915 ACT, AS AMENDED BY SECTION 5 OF THE 1916 ACT.

The Minister of Munitions is empowered to apply the Leaving Certificate, Statutory Provisions, and Regulations to any class of establishment engaged in munitions work, and he may delegate this power to any other Government Department. Such orders have been made in regard to—

1915 Act, s. 7.
1916 Act, s. 5;
20.

- (1) Any establishment being a factory or workshop the business carried on in which consists wholly or mainly in engineering, shipbuilding, or the production of arms, ammunition, or explosives, or of substances required for the production thereof. Order, 14th July, 1915.
- (2) Any establishment supplying electrical light or power in cases where the Minister of Munitions certifies that such supply is of importance for the purpose of carrying on munitions work. Order No. 279,
1st May, 1916.
- (3) Any establishment supplying light, heat, or power generated by gas (*a*) in cases where the Minister of Munitions certifies that such supply is of importance for carrying on munitions work; (*b*) in cases where such establishment is substantially engaged upon the production of materials required for or for use in the manufacture of explosives. Order No. 512,
25th July,
1916.
- (4) Any establishment which has been, or may hereafter be, declared to be a controlled establishment. Order No. 279,
1st May, 1916.
- (5) Any establishment engaged in the construction, alteration, repair, or maintenance of docks and harbours and work in estuaries. Admiralty
Order No. 450,
1st July, 1916.

178 ORDERS APPLYING SECTION 7.

Order No. 791,
7th Nov., 1916.

- (6) Any establishment supplying water in cases where the Minister of Munitions certifies that such supply is of importance for the purpose of carrying on munitions work.

Order No. 813,
23rd Nov.,
1916.

- (7) Any establishment manufacturing fire brick or silica brick.

Order No. 856,
4th Dec., 1916.

- (8) Any establishment manufacturing lime.

Order No. 615,
6th Sep., 1916.

- (9) Any establishment belonging to or in the possession or under the control of His Majesty, or any Government Department which is used for housing or storing ammunition or explosives, or the materials required for their manufacture.

Army Council
Orders,
No. 2135,
12th Nov.,
1916.
No. 940, 16th
Oct., 1916.

- (10) (a) Any establishment being a barracks or hutted camp so far as concerns the construction, alteration, or repair thereof, or the supply of light, heat, water, or power for the purpose of such construction, alteration, repair, or supply; (b) any establishment the work of which consists in whole or in part of such construction, alteration, repair, or supply as aforesaid; in any case in which such work is executed under the direction of the Royal Engineers or the Director of Barrack Construction.

Road Board
Order No. 890,
16th Dec.,
1916.

- (11) Any establishment (whether belonging to the Road Board or to any other person, corporation, or body) which is engaged under the control, direction, or supervision of the Road Board in the construction, alteration, or repair of roads for purposes connected with the present war.

Order No. 143,
29th Jan.,
1917.

- (12) Any establishment manufacturing shrunk dolomite.

APPENDIX IX.



ORDERS EXTENDING DEFINITION OF
MUNITIONS WORK.

APPENDIX IX.

MEANING OF "MUNITIONS WORK."

"Munitions work" is defined in section 9 (1) of the 1916 Act. It includes, *inter alia* (besides warships), "**classes of ships or vessels** which may be **certified by the Board of Trade** to be necessary for the successful prosecution of the war." Under this power the Board of Trade has certified certain classes of steamships.

1916 Act, s. 9
(1) (a).

It includes also the manufacture or repair of **materials** (required for the use in the manufacture of articles enumerated in section 9 (1) (a)) "**of any class specified in an order made for the purpose by the Minister of Munitions.**" Under this power the Minister has specified—

13th May,
1916.

(1) Balloon fabric, constructional steel, fire-brick, glass for constructional purposes, glass for optical purposes, lead compounds, magnesite brick, materials required for or for use in the manufacture of explosives, silica brick, worked timber.

Order No. 107,
14th Feb.,
1916.

(2) Card clothing.

Order No. 314,
12th May,
1916.

(3) All materials wholly or partially manufactured from wool.

Order No. 530,
27th July,
1916.

(4) Lime.

Order No. 855,
13th May,
1916.

(5) Shrunken dolomite.

Order No. 142,
29th Jan.,
1917.

The definition of "munitions work" includes the construction, alteration, repair, or maintenance of **docks and harbours** and work in **estuaries**, where such work is **certified by the Admiralty** to be necessary for the successful prosecution of the war. Under this power

13th May,
1916.

the Admiralty have up to date certified dock repair and maintenance work at about forty docks and harbours over the country.

1916 Act, s. 9
(1) (d).

The definition of munitions work includes the supply of light, heat, water, or power, or the supply of tramways facilities, **where the Minister of Munitions certifies that such supply is of importance**

13th May,
1916.

for carrying on munitions work, and the erection of buildings, machinery, and plant required for such supply. Under this power the Minister has certified forty-six electricity undertakings in England and Wales, seven in Scotland, and one in Ireland; fourteen gas undertakings in England and Wales and 8 in Scotland; five water undertakings in England and Wales and five in Scotland; thirty-three tramway undertakings in England and Wales and four in Scotland, and the Army Council has certified the supply of light, heat, water, and power supplied for barracks or hutted camps.

Order 941,
16th Oct.,
1916.

Munitions work includes the repair of **fire engines** and **fire brigade appliances** where the Minister of Munitions certifies that such repair is necessary in the national interest, but so far only one has been certified.

APPENDIX X.



ARMY RESERVE MUNITIONS WORKERS.

APPENDIX X.

MINISTRY OF MUNITIONS OF WAR.

A.R.M.W. 40.

ARMY RESERVE MUNITIONS WORKERS.

NOTES FOR THE GUIDANCE OF EMPLOYERS TO WHOSE EMPLOYMENT MEN ARE ASSIGNED TO WORK AS ARMY RESERVE MUNITIONS WORKERS, BY DIRECTION OF THE MINISTRY OF MUNITIONS.

I. GENERAL.

1. Army Reserve Munitions Workers are men who have been relegated to Army Reserve W., and have entered into a formal agreement to undertake work for War purposes in the employment of any firm of employers which may be named by the Minister of Munitions, and to remain in such employment during the War for so long as is required by the Minister, in accordance with certain specified conditions.

2. The terms of the agreements signed by these men are set out on page 6 of this Memorandum. The agreement, A.R.M.W. 1 therein set out, is applicable to men who are skilled in munitions work, whilst the agreement A.R.M.W. 2 is applicable to men skilled in other trades and also to unskilled men. P. 193.
P. 194.

3. The agreements signed by these men entitle them to a MINIMUM rate of wages—10d. per hour in the case of agreement A.R.M.W. 1, and 7d. per hour in the case of agreement A.R.M.W. 2—and also to certain special allowances.

186 ARMY RESERVE MUNITIONS WORKERS.

These allowances, together with the sum necessary to make up the difference, if any, between—

- (a) *the standard rate of the district (A.R.M.W. 1), or*
- (b) *that rate current at the job (A.R.M.W. 2),*

and the guaranteed minimum rate of 10d. per hour and 7d. per hour respectively, are recoverable by the employer from the Ministry of Munitions.

4. Army Reserve Munitions Workers who have been assigned to the employment of any firm of employers by direction of the Minister of Munitions, will be liable to return to Military Service at any time that they cease to be employed by any firm named by the Minister of Munitions, or may be ordered to report themselves for service with the Colours at any time that the competent Military Authority thinks fit. They will be civilians, and will receive no pay or other allowances from Army Funds, and will not wear uniform. They will be subject to the ordinary working conditions prevailing in the establishment of the firm of employers to which they are assigned by direction of the Minister of Munitions.

5. An employer who desires to dispense with the services of an Army Reserve Munitions Worker must (*except in the case of insubordination, when the nearest Employment Exchange must at once be notified*) give at least three weeks' notice to the nearest Employment Exchange together with a statement of the ground for giving such notice (on Form A.R.M.W. 5B).

6. The provisions of the Munitions of War Acts 1915 and 1916 dealing with Leaving Certificates will apply to Army Reserve Munitions Workers. An employer should in any case in which an Army Reserve Munitions Worker applies for, *and the employer is willing to grant him*, a Leaving Certificate, so inform the nearest Employment Exchange at the earliest possible moment, in order that the Exchange may take any action which may be necessary on behalf of the Ministry. Form A.R.M.W. 5B should be used by an employer for this purpose.

II. PROCEDURE AS TO OBTAINING THE SERVICES OF
ARMY RESERVE MUNITIONS WORKERS AND AS
TO THEIR ENTERING EMPLOYMENT.

7. All applications from employers for the services of Army Reserve Munitions Workers must be made by the employer to the nearest Employment Exchange. Before any application for the employment of Army Reserve Munitions Workers can be considered, the intending employer must sign an undertaking (Form A.R.M.W. 3A) agreeing to carry out the conditions under which Army Reserve Munitions Workers can be employed.

8. So soon as an Army Reserve Munitions Worker is instructed to take up employment with a particular firm, the employer will be so informed by the Employment Exchange on Form A.R.M.W. 5 with which will be sent Form A.R.M.W. 5A. **Immediately the workman starts employment, the date of starting must be filled in by the employer on the Form A.R.M.W. 5A, together with the further particulars required to be furnished therein regarding rates of wages, &c., and the form returned by the employer to the Manager of the Employment Exchange. Until the Form A.R.M.W. 5A has been received, no payment made by the firm can be refunded by the Ministry of Munitions.**

9. The allowances which are authorised to be paid to the workman, together with any difference in rate of wages to which he is entitled by the terms of his undertaking, will be communicated as soon as possible to the employer by the Ministry of Munitions on Form A.R.M.W. 23. Such authorised allowance, and any authorised difference in any rate of wages must be paid by the employer to the workman each week with his wages.

10. Claims for the repayment by the Ministry of authorised allowances and authorised differences in rates of wages should be made by the employer on Accounts Form A.R.M.W. 51.

11. An account of payment for allowances and of authorised differences in rates of wages should be made by

188. ARMY RESERVE MUNITIONS WORKERS.

the employer up to the end of each pay day, and be forwarded to the Ministry of Munitions, as soon as possible thereafter, on Accounts Form A.R.M.W. 51. Only the sums authorised by the Ministry on Form A.R.M.W. 23 may be claimed. Repayments by the Ministry will, as a rule, be made monthly.

12. The books and accounts of the employers are to be made available at all reasonable times for the purpose of the verifications of the accounts by duly authorised representatives of the Minister of Munitions.

III. DISMISSAL AND TRANSFER.

13. Particular attention is drawn to paragraph 5 of this Memorandum as to the requirement of at least three weeks' notice, except in the case of insubordination, in any case in which an employer desires to dispense with the services of an Army Reserve Munitions Worker. Any such notice must be given by the employer on Form A.R.M.W. 5b to the nearest local Employment Exchange.

14. An Army Reserve Munitions Worker is liable to be transferred to the employment of any other firm of employers at any time that the Ministry of Munitions thinks fit. Notice of intention to transfer an Army Reserve Munitions Worker will be given by the Ministry of Munitions, or by the Employment Exchange acting on behalf of the Ministry, to an employer on Form A.R.M.W. 9.

IV. WORKING CONDITIONS.

15. An Army Reserve Munitions Worker is subject to the ordinary working conditions prevailing in the establishment of the firm of employers to which he has been sent by authority of the Ministry of Munitions. Cases of irregular timekeeping, discipline, &c., can be dealt with by the firm in exactly the same manner as those of other employees of the firm.

V. ABSENCE FROM WORK WITHOUT REASONABLE CAUSE.

16. In any case in which an Army Reserve Munitions Worker is absent from his work without good and sufficient reason, the employer should at once report the circumstances to the nearest Employment Exchange on Form A.R.M.W. 5c.

VI. FORMS.

17. Forms A.R.M.W. 3A, 5B, 5C, 5D can be obtained by an employer on application to the nearest Employment Exchange. Form A.R.M.W. 51 (Accounts Form) can be obtained on application to The Secretary, Ministry of Munitions, 6 Whitehall Gardens, London, S.W.

VII. INSTRUCTIONS AS TO CALCULATION OF RATES OF PAYMENT OF ARMY RESERVE MUNITIONS WORKERS.

(A.) TIME RATE.

An Army Reserve Munitions Worker who signed Form A.R.M.W. 1 on enrolment is entitled to be paid at the rate of 10d. per hour in the establishment to which he is transferred, or at the standard rate of wages for his class of work for the district in which that establishment is situated.

Employers to whose service the workman is transferred should accordingly pay him at their district rate unless instructions are in due course issued by the Ministry authorising the firm to pay him at a higher rate.

An Army Reserve Munitions Worker who signed Form A.R.M.W. 2, on enrolment should on transfer be paid at the rate of 7d. per hour or at the rate current at the job upon which he is employed in the establishment to which he is transferred whichever rate is the higher.

Workmen of this class should, therefore, be paid at the rate current for their class of work in the establishment to

190 ARMY RESERVE MUNITIONS WORKERS.

which they are transferred pending receipt of any authority from the Ministry to pay them at a higher rate of wages.

(B.) PIECE WORK.

(i) *Piece work paid independently of time rates, i.e., at piece prices per job.*

Where an Army Reserve Munitions Worker is employed in the establishment to which he is transferred wholly upon piece work, for which he is paid at piece prices per job he should be paid the piece work rate of that establishment, provided that for any week during which he works the normal number of hours and fails to earn as much as his enrolment rate, his earnings should be made up to that rate, the difference between the amount actually earned and his enrolment rate being recoverable from the Ministry.

No claim for the difference in rate can be entertained in respect of amounts earned at piece rates in extra time.

(ii) *Piece work based on time rates or premium bonus.*

Where an Army Reserve Munitions Worker is employed in the establishment to which he is transferred on piece work based on a time rate, or on premium bonus, his earnings should be calculated on the current time rate for his class of work or upon his enrolment rate, whichever is the higher.

Any difference between the amount of the workman's earnings, based on his enrolment rate, and the amount which he would earn were payment for such piece work or premium bonus based on the rate current in the establishment to which he is transferred, is recoverable from the Ministry.

(iii) *Partial Piece work.*

Where an Army Reserve Munitions Worker is sometimes employed upon piece work and sometimes upon time work in the establishment to which he is transferred, he should be paid when upon time work in accordance with the terms of paragraph (A) above and when upon piece work according to sub-section (i) above.

(iv) Tonnage rate.

Where an Army Reserve Munitions Worker is paid at a tonnage rate in the establishment to which he is transferred he should receive the rate current in that establishment for his class of work provided that for any week during which he works the normal number of hours and fails to earn as much as his enrolment rate, his earnings should be made up to that rate, the difference between the amount actually earned and his enrolment rate being recoverable from the Ministry.

(C.) OVERTIME AND NIGHT SHIFT.

An Army Reserve Munitions Worker should be paid for night shift and overtime on the basis of the rate at which he ought to be paid for ordinary time but subject to the proportionate increase for night shift and overtime, and to the other conditions prevailing in the establishment to which he has been transferred.

**VIII. REGULATIONS CONCERNING PAYMENT OF
SUBSISTENCE ALLOWANCE.**

An Army Reserve Munitions Worker is entitled to receive payment of subsistence allowance at the rate of 2s. 6d. per day if on investigation he is found to have dependants for whose maintenance he is responsible and from whom he is obliged to be separated owing to his transfer as an Army Reserve Munitions Worker by direction of the Ministry.

It will, therefore, be necessary that the firm to whose service an Army Reserve Munitions Worker is transferred should state, if possible, whether the workman's employment in their establishment obliges him to reside apart from his dependants. This information should be supplied on Form A.R.M.W. 5A. Whether the workman actually contributes to the support of dependants will be ascertained by the Ministry, who in due course will inform the firm whether the workman is entitled to payment of subsistence allowance.

192 ARMY RESERVE MUNITIONS WORKERS.

(A.)—PAYMENT OF SUBSISTENCE ALLOWANCE TO WORKERS NORMALLY ENTITLED TO RECEIVE SUCH ALLOWANCE, FOR PERIODS OF HOLIDAY OR ABSENCE FROM WORK.

(1) During a general holiday or a holiday given for the employer's convenience or specially granted by the employer, the workman should receive the amount of any retention fee which he may have to pay in order to retain his lodgings.

(2) Where an Army Reserve Munitions Worker is absent from work for his own convenience and not on account of illness without permission from his employer or good reason, no subsistence allowance should be paid to him. If he is so away for half a day he should forfeit one day's subsistence allowance.

(3) Where a workman goes away for the week-end he should be paid full allowance provided that he works on Saturday and returns to work on Monday morning. Should he not return to work till Monday afternoon or Tuesday morning, he should forfeit one day's subsistence allowance, but should receive the allowance for Saturday and Sunday.

(4) Where an Army Reserve Munitions Worker is absent from work on account of illness, and remains in his lodgings and produces a medical certificate, if required, he should be paid full subsistence allowance.

(5) Where an Army Reserve Munitions Worker has to return to his home on account of illness and produces a medical certificate to that effect, if required, and it seems clear that he will have to be absent for more than one week, he should give up his lodgings. In such cases, subsistence allowance will not be payable for the period of absence, but the workman's fare home and back and any fee which it may be necessary for him to pay on account of his having to give up his lodgings at short notice, should be allowed. Recovery of such payments should be claimed by the workman's employers from the Ministry.

(B.)—VISITS OF DEPENDANTS TO ARMY RESERVE MUNITIONS WORKERS TO WHOM PAYMENT OF SUBSISTENCE ALLOWANCE HAS BEEN AUTHORISED.

The Ministry will raise no objection as far as the payment

of subsistence allowance is concerned, to the dependant of a workman paying him a few days' visit.

IX. CHILDREN'S ALLOWANCE.

Whether an Army Reserve Munitions Worker is entitled to receive payment of children's allowance will be decided by the Ministry, and no payment of such allowance should be made to any worker by his employers unless they receive an authority from the Ministry to pay the allowance.

Ministry of Munitions of War,
Labour Supply Department,
6 Whitehall Gardens, London, S.W.
October, 1916.

TERMS OF AGREEMENT, A.R.M.W. 1, REFERRED TO IN PARA. 3 OF THIS MEMORANDUM.

In accordance with arrangements which have been made by the Minister of Munitions with the Army Council, I hereby agree to undertake work for war purposes in the employment of any firm of employers which may be named by the Minister of Munitions, and to remain in such employment during the War for so long as is required by the Minister in accordance with the following conditions:—

1. The rate of wages which I shall receive whilst I am in such employment shall be a rate of 10d. per hour or the standard rate, if any, of the district where I am employed, whichever rate is the higher.
2. I shall receive over and above my wages the following allowances:—
 - (a) Children's allowance: An allowance of 2s. 6d. per week if I, at the date of signing this agreement, have four and not more than five children who being sons are under fourteen and being daughters are under sixteen years of age. An allowance of 5s. per week if I, at the date of signing this agreement, have six or more children who being sons are under fourteen and being daughters are under sixteen years of age.
 - (b) When railway travelling is necessitated by my being instructed to report for duty in the employment of

194 ARMY RESERVE MUNITIONS WORKERS.

- any firm which may be named by the Minister, or to transfer subsequently to some other employment, a free Railway Warrant to enable me to take up such employment.
- (c) A subsistence allowance at the rate of 2s 6d. per day for 7 days per week if on investigation I am found to have dependants for whose maintenance I am responsible and from whom I am obliged to be separated owing to my being employed by a firm of employers named by the Minister; *or*
 - (d) If within daily travelling distance from my home (exceeding half-an-hour each way) the value of workman's tickets and one hour's travelling time per day at the rate of time-and-a-half; *or*
 - (e) If within travelling distance from my home (not exceeding half-an-hour), the cost of workman's tickets.

I understand that the allowances to which I am entitled by this undertaking will be paid to me by the firm by whom I am employed, with my wages.

I understand that I am liable to return to Military Service at any time that I cease to be employed by any firm named by the Minister of Munitions, or if I am ordered to report myself for service with the Colours by the competent Military Authority.

Signed

In the presence of

Date 191 .

TERMS OF AGREEMENT, A.R.M.W. 2, REFERRED TO IN PARA. 3 OF THIS MEMORANDUM.

In accordance with arrangements which have been made by the Minister of Munitions with the Army Council, I hereby agree to undertake work for war purposes in the employment of any firm of employers which may be named by the Minister of Munitions and to remain in such employment during the war for so long as is required by the Minister, in accordance with the following conditions:—

1. The rate of wages which I shall receive whilst I am in such employment shall be a rate of 7d. per hour or that current at the job upon which I am employed, whichever rate is the higher.
2. I shall receive over and above my wages the following allowances:—
 - (a) Children's allowance: An allowance of 2s. 6d. per week if I, at the date of signing this Agreement, have four and not more than five children who

being sons are under fourteen and being daughters under sixteen years of age. An allowance of 5s. per week if I, at the date of signing this Agreement, have six or more children who being sons are under fourteen and being daughters are under sixteen years of age.

- (b) When railway travelling is necessitated by my being instructed to report for duty in the employment of any firm which may be named by the Minister or to transfer subsequently to some other employment, a free Railway Warrant to enable me to take up such employment.
- (c) A subsistence allowance at the rate of 2s. 6d. per day for seven days per week if on investigation I am found to have dependants for whose maintenance I am responsible and from whom I am obliged to be separated owing to my being employed by a firm of employers named by the Minister.

I understand that the allowances to which I am entitled by this undertaking will be paid to me by the firm by whom I am employed, with my wages.

I understand that I am liable to return to Military Service at any time that I cease to be employed by any firm named by the Minister of Munitions, or if I am ordered to report myself for service with the Colours by the competent Military Authority.

Signed

In the presence of

Date

191 .

APPENDIX XI.

SUMMARY OF DECISIONS IN THE APPEAL TRIBUNALS, 1916.

I. Apprentices, - - - - -	199
II. Bad Timekeeping, - - - - -	202
III. Dismissal Without Notice, - - - - -	204
IV. Fair Wages Clause, - - - - -	208
V. Leaving Certificate, - - - - -	209
VI. Munitions Tribunals, - - - - -	216
VII. Munitions Volunteer, - - - - -	218
VIII. Munitions Work, - - - - -	219
IX. Order, 14th July, 1915, - - - - -	222
X. Strikes, - - - - -	223
XI. Sunday Work, - - - - -	223
XII. Suspension of Trade Rules and Customs, - - - - -	224
XIII. Wages not Earned for more than Two Days, - - - - -	225
XIV. Working Conditions Changed, - - - - -	228
XV. Working Rules : Breach of, - - - - -	228

ABBREVIATIONS.

E.A.R. = English Appeal Reports.

S.A.R. = Scottish Appeal Reports.

APPENDIX XI.

I. APPRENTICES.

General Position.

In an application in Scotland by a time-expired apprentice, a local tribunal discussed the general relation of apprentices to the Munitions Act, and stated the principle on which the local tribunal dealt with applications for leaving certificates by apprentices to be (1) that the whole circumstances must be taken into consideration in determining where the applicant can best render service to the nation; (2) that, where the applicant has *not* completed his term, the presumption is that he can best serve by remaining in his present employment, and unless that presumption is rebutted by evidence a leaving certificate should be refused; and (3) that when he *has* completed his term, the tribunal, in the absence of evidence that it is in the national interest to retain him, should grant a leaving certificate. In an appeal by the employers the appeal judge approved of these rules—

“The appellants maintain that if an employer offers the standard rate of wage—as they do in this case—the apprentice is still bound to them. I cannot take that view. The rate of wage is a factor to be taken into consideration, but it is not, I think, conclusive. The whole circumstances must be taken into consideration, and among them the fact that, if he is permitted to perfect his education in new surroundings, the nation will benefit indirectly. I agree that, in the case of an ordinary workman, the presumption is that he can serve best in his present employment; but, in the case of an apprentice who has recently completed a term of apprenticeship, I think the presumption is the other way. The respondent is therefore entitled to his certificate, unless the appellants can show that it is in the national interests that he should

Apprentices—continued.

“ remain with them. They have failed to satisfy the tribunal
“ on that point, and it is a matter of fact, on which the
“ tribunal are conclusive.” (*Per* Lord Dewar.)

M'Kie & Baxter v. Barrie, 1916, S.A.R.,
vol. i., p. 23.

In a subsequent case in England, the appeal judge, referring to the decision in *M'Kie & Baxter v. Barrie*, remarked—“ I do not read the case as laying down any
“ proposition of law, for it appears to be plain that the
“ matter cannot be decided as a question of law, but as a
“ question of fact to be determined upon considerations of
“ industrial conditions rather than upon the consideration of
“ legal propositions. I am clearly of opinion that no
“ such proposition applies as a matter of law, so far as
“ English tribunals are concerned. Certainly one would
“ have thought it was not in accordance with the usual
“ practice for apprentices to leave their employment when
“ they have completed their term of apprenticeship, and
“ one knows that, both before and since the war, agreements
“ between trade unions and employers have regulated the
“ relations of masters and their apprentices who have re-
“ cently completed their articles, and the wages to be paid
“ to such ex-apprentices. One knows too, that, in the
“ engineering trade, the workmen are well protected by a
“ powerful trade union, and I should be rather surprised,
“ if it were to the advantage of apprentices generally to
“ leave their employment at once, to find that some such
“ provision should not be made, and I think that the pro-
“ visions that are made are rather as an inducement to
“ the apprentice to remain in his employment than other-
“ wise. I think it is sufficient to say that there is no prin-
“ ciple of law which compels a tribunal to consider the
“ matter as concluded by a presumption of fact one way or
“ the other. The tribunal has, I think, to take all the
“ matters which come before it into consideration, and,
“ having weighed them, it has to say whether or not, in a
“ particular case, the conduct of the employer is reasonable

Apprentices—continued.

“or unreasonable in refusing the certificate.” (Per Mr. Justice Atkin.)

Dines v. Mumford, Limited, 1916, E.A.R.,
vol. i., p. 183.

Standard Rate of Wages.

In a district a custom prevailed that young men, out of their apprenticeship, but not yet twenty-three years of age, should be paid less than the minimum district rate for ordinary workmen. A young journeyman of twenty-one claimed a leaving certificate on the ground that he was not being paid the “full standard rate of wages applicable to “fully qualified workmen in his trade” (1916 Act, section 5 (5)). It was held that the phrase “full standard rate of “wages” means the rate of the trade, not the district rate, and that the phrase “fully qualified workmen” means workmen completely qualified and who are not under disability from earning full wages by reason of age or skill or experience.

P. 71.

S. 5 (5), p. 71.

Curnock v. Butler & Co., 1916, E.A.R., vol.
i., p. 52.

A young journeyman, in a trade where it was the custom that an ex-apprentice was for two years paid a lower wage than a workman two years or more out of his apprenticeship, claimed a leaving certificate on the ground that he desired to obtain the full standard rate; that he possessed greater skill than was required for the work he was doing; and that he could in fact obtain elsewhere the full standard rate of a fully qualified workman. The chairman of the local tribunal expressed the view that, as the applicant had taken the advantage of the trade agreement, he should observe the condition as to wages between twenty-one and twenty-three. It was held that the agreement by itself did not outweigh the statutory enactment. “If the matter rested “merely upon the existence of an agreement, I do not think “the tribunal would be entitled, looking merely to the

Apprentices—continued.

“existence of the agreement, and taking into account the “statutory consideration, to come to a decision that the “agreement in itself was sufficient to outweigh the statutory “consideration.” (*Per Mr. Justice Atkin.*) But the existence of a trade agreement creating a custom or practice should be regarded along with all the other circumstances.

Padgett v. Hornsby & Sons, Limited, 1916,
E.A.R., vol. i., p. 137.

Completion of Apprenticeship.

P. 71.

1916 Act, s. 5
(5), p. 71.

A workman has “completed” his term of apprenticeship, within the meaning of section 5 (5), notwithstanding that he may, in respect of a custom of trade, or agreement with employers, be under the economic disability of not yet receiving the full standard rate of wages in his trade. A tribunal accordingly must consider his application for a leaving certificate as the application of a workman who has left or desires to leave his work because he has recently completed a term of apprenticeship or period of learning his trade or occupation. “It is well known that in a good “many trades there is an interval between the time when “a man completes his apprenticeship and the time when he “obtains the full standard rate of wages. That time no “doubt varies in different trades, and possibly in different “localities; but during that time it appears to me that the “man is a man who has recently completed his apprentice- “ship.” (*Per Mr. Justice Atkin.*)

Donaldson v. Kearns & Co., Limited, 1916,
E.A.R., vol. i., p. 143.

II. BAD TIMEKEEPING.

A workman was convicted of contravening rule 2 of the ordering of work regulations by absenting himself from work without leave on nine occasions within a month. He had

Bad Timekeeping—continued.

made no excuse of illness at the time, although rule 2 requires workers who are absent through illness or other unavoidable cause to report immediately. He had produced a medical certificate, dated over a month after the absence, to the effect that he suffered from chronic bronchitis. An appeal was dismissed, the appeal judge remarking—"I think "the tribunal were right in holding that this certificate "was not a sufficient explanation of the irregular attendance "which was proved. Workmen ought to understand that "it is their duty to report illness which causes absence *at the time*, and, if they fail to do so, they may find it very "difficult to satisfy the tribunal that their absence was "unavoidable. A certificate in general terms is clearly "insufficient." (*Per Lord Dewar.*)

P. 148.

Colley v. Minister of Munitions, 1916, S.A.R.,
vol. i., p. 21.

A workman who had come late to work in the mornings practically every day for a month was convicted of failing to attend regularly in contravention of rule 2 of the ordering of work regulations. He did not produce a medical certificate, and he failed to satisfy the local tribunal that his irregularity was due to unavoidable causes. Later, in an appeal, he tendered a medical certificate to the appeal judge, who dismissed the appeal. "He has now produced a doctor's "certificate stating in general terms that he suffers from "rheumatism; but that certificate does not appear to me "to afford sufficient explanation of the irregular attendance "which he admits, and it cannot be accepted as sufficient "evidence of unavoidable absence *which was not reported "or explained at the time.*" (*Per Lord Dewar.*)

Gosnell v. Minister of Munitions, 1916,
S.A.R., vol. i., p. 22.

A workman was a badged man employed in a controlled establishment, under a contract requiring him to give one day's notice to leave. He asked for a leaving certificate,

Bad Timekeeping—continued.

in order to go to sea. The certificate was refused. Two days later he asked a pass-out to attend to private business. He went straight to a ship, and signed on as a seaman. Two days later he sailed in the ship. He had previously been a sailor. He was prosecuted for absenting himself from work without leave. When the case was heard he was at sea. The local tribunal held that he had ceased to be in the employment of the controlled establishment on 23rd October, when he signed on to go to sea, and dismissed the complaint. On appeal it was held that he was still in the employment, and that he ought to have been convicted of absenting himself from work without leave, in contravention of rule 2 of the ordering of work regulations.

Stothert & Co., Limited v. Hooper, 1916,
E.A.R., vol. i., p. 233.

III. DISMISSAL WITHOUT NOTICE.

Justification for Dismissal.

Workmen were asked to do certain work, which they refused to do because it was to be paid at a lower rate than the work they had been doing. They were dismissed with less than a week's notice, and they claimed compensation. The local tribunal held that their refusal to do the work was not misconduct justifying dismissal, and awarded them compensation. An appeal was dismissed on the ground that whether or not the men's refusal to do the work on the terms offered was justified was a pure question of fact for the local tribunal to decide. "I do not say that if a workman
" wilfully disobeys the orders of his employer he may not
" be summarily dismissed without the employer being liable
" to pay compensation in lieu of notice, but that is not this
" case." (*Per Mr. Justice Atkin.*)

*Gleaves v. White & Poppe, Limited, Arch v.
White & Poppe, Limited*, 1916, E.A.R.,
vol. i., p. 67.

Dismissal without Notice—continued.

Misconduct of the workman justifies dismissal. That a tool turner had, by carelessness, spoiled a jig by turning it with so big a bore that no thread could be cut in it, along with the fact of his failing to fill up his time sheets, which he knew it was his duty to hand in each night, was held by a local tribunal to be misconduct justifying dismissal. On appeal it was held (1) that whether the misconduct justified the dismissal was a question of fact, not subject to review; (2) that an employer is entitled to plead misconduct justifying dismissal, in answer to a claim for compensation, notwithstanding that the misconduct was not within the knowledge of the employer at the time of dismissal, and although it was not stated in the report which an employer is bound to make to the labour exchange when a workman is dismissed.

1916 Act, s. 5
(3), p. 74.

1916 Act, s. 5
(3), p. 74.
L. Cert. Rule
10, p. 103

Payne v. Brazil, Straker & Co., Limited,
1916, E.A.R., vol. i., p. 223.

Time for Claiming Compensation.

Three weeks after dismissal, workmen made a claim for compensation. The local tribunal refused to entertain it, as it had not been timeously made. On appeal that judgment was recalled in the circumstances of that case; but the appeal judge remarked—"It is true, as the appellants say, that no limit of time within which a claim must be lodged is specified in the Act; but it is in the interests of both workers and employers, and is clearly in accordance with the spirit and intention of the Acts, that all claims should be lodged and disputes settled with the least possible delay; and any claim which is unreasonably delayed ought to be rejected. It is not, I think, possible to lay down any general rule as to what constitutes unreasonable delay; that must depend upon the circumstances of each case." (*Per Lord Dewar.*)

Maclean and Others v. Yarrow & Co., Limited, S.A.R., vol. i., p. 5.

Dismissal without Notice—*continued.*

Amount of Compensation.

Compensation is to be assessed upon the principles that would be applied at common law in assessing a claim of damages for wrongous dismissal. The workman is not necessarily entitled to £5, but only to such a sum (not exceeding £5) as represents the loss he has actually sustained, taking into consideration the fact of his having obtained, or the probabilities of his obtaining, other employment. Within that limit, the amount which is appropriate to award is a matter of fact for the local tribunal and not subject to review.

Anderson v. Reid, 1916, S.A.R., vol. i., p. 4.

Anderson v. Reid, 1916, E.A.R., vol. i., p. 112.

Morgan v. Fraser & Chalmers, Limited, 1916, E.A.R., vol. i., p. 109.

Gane v. Rees Roturbo Manufacturing Company, 1916, E.A.R., vol. i., p. 129.

Who May Claim Compensation.

Only a worker employed on munitions work and in an establishment to which section 7 of the Act has been applied by order of the Minister of Munitions, is within the scope of section 5 (3) of the 1916 Act.

Boyns v. Mowlem & Co., Limited, 1916, E.A.R., vol. i., p. 228.

M'Niell v. John Ross & Co. (Appeal by Minister of Munitions), S.A.R., vol. i., p. 56.

A workman was the servant of a firm whose establishment was not of a class to which section 7 had been applied; but they sent him to assist munitions work in an establishment to which section 7 did apply. He was dismissed by the foreman of his own employers, under whose direction he

Dismissal without Notice—*continued.*

worked. It was held that he was entitled to compensation for having been dismissed without a week's notice.

Rawnsley v. Bradford Dyers' Association, Limited, 1916, E.A.R., vol. i., p. 103.

Temporary Employment.

A workman claimed compensation under section 5 (3) for dismissal. The concluding part of section 5 (3) excuses failure to give a week's notice, if the nature of the employment is "discontinuous or temporary." The workman had, on his engagement, signed a document, which stated that the nature of the employment was temporary, and subject to one hour's notice. The service was terminated on an hour's notice. The local tribunal held that the nature of the employment was not temporary within the meaning of section 5 (3), and awarded compensation. An appeal was dismissed. 1916 Act, s. 5 (3), p. 70.

"The mere fact that the complainant was only entitled by his contract of service to one hour's notice would not necessarily make his employment temporary. It is said by the employers that the complainant's employment was of a temporary nature, but that is not in my opinion conclusive with regard to the matter. Even if a workman is employed on work of a temporary nature, he is not necessarily deprived of the benefit of the statute, unless the tribunal comes to the conclusion that the employer has reasonable cause on that ground for dismissing him, but the tribunal is not bound to come to such a conclusion. No doubt the tribunal must take into consideration the temporary nature of the workman's employment, in deciding whether the employer has reasonable cause for dismissing him without a week's notice, but if the tribunal comes to the conclusion that the dismissal was not for a reasonable cause, it may give the workman the benefit of the section, and award him compensation, even though his employment is of a temporary nature." (*Per Mr. Justice Atkin.*)

Foden v. Jacquet-Maurel and Condac, Limited, 1916, E.A.R., vol. i., p. 237.

Indirect Employment.

A workman was engaged and paid by a firm not themselves engaged in munitions work, but they sent him to assist in the erection of a munitions factory which another firm were constructing. He worked under the supervision of the foreman of the firm who had engaged him, and he was dismissed by that foreman without a week's notice. Held that he was entitled to compensation in respect that he was employed on or in connection with munitions work in an establishment of a class to which section 7 had been applied by order of the Minister, and that he accordingly fell within the scope of section 5 (3).

Rawnsley v. Bradford Dyers' Association,
1916, E.A.R., vol. i., p. 103.

IV. FAIR WAGES CLAUSE.

On 10th March, 1909, the House of Commons passed a resolution that what is known as the fair wages clause should be inserted in Government contracts. That, *inter alia*, requires a contractor to pay rates of wages and observe hours recognised by employers and trade societies (or in the absence of such recognition wages and hours which amongst good employers prevail) in the district where the work is to be carried out, or, where there are no such recognised rates and hours, those which prevail in the nearest district in which the general industrial circumstances are similar. The Munitions Act directs tribunals in considering whether a leaving certificate has been unreasonably refused to take into consideration, *inter alia*, whether the employer has observed the fair wages clause. *Held* (1) that whether or not they have done so is a question of fact for the local tribunal, not a question of law; and (2) that, where there is no settled rate in a district, the *onus* rests upon the workman to show which is the nearest district within the meaning of the fair

Fair Wages Clause—continued.

wages clause, and what is the rate prevailing there. "It is plain that, in a case of this kind, it is for the workmen who are complaining to make out that the employers have failed to observe the conditions laid down in the fair wages clauses required by resolution of the House of Commons. It is not for the tribunal to search through the industrial world to discover the nearest district where similar industrial conditions prevail; and as the workmen have not shown the existence of similar industrial conditions prevailing elsewhere they have failed to make out their case." (Per Mr. Justice Atkin.)

Mullins v. London, Brighton, and South Coast Railway, 1916, E.A.R., vol. i., p. 178.

V. LEAVING CERTIFICATE.**Form of Certificate.**

If an employer grants a certificate which is not in the prescribed form of Schedule I. of the Leaving Certificate Rules, he is treated as having refused to grant a certificate at all.

Rules 1, 2, 9.
Sch. II., pp.
101; 103; 105.

Gane v. Rees Roturbo Manufacturing Company, Limited, 1916, E.A.R., vol. i., p. 129.

Leaving Work Before Case Heard.

A workman applied on 16th May for a leaving certificate. The case came on for hearing on 24th May. In the interval the workman had left his work. A local tribunal refused to hear the case unless and until he returned to work. On appeal it was held that his having left work was not an absolute bar to his application being entertained. "But, while I am of opinion that a workman is entitled to have his complaint entertained, the fact that he has left his

Leaving Certificate—continued.

“employment without leave is of material importance in
 “considering whether his claim ought to be sustained. A
 “labourer who, without just cause, leaves his work, and so
 “disregards his obligations, is presumably not a person who
 “can be relied upon to perform faithfully more important
 “work elsewhere; and workmen who desire leaving certifi-
 “cates must understand that it will be difficult to obtain
 “them unless they remain—as it is clearly their duty to
 “remain—in their present employment until the question
 “whether they are entitled to leave has been determined.
 “In all cases complaints will be considered, but, unless the
 “workman is able to explain satisfactorily why he left his
 “work, it will be within the power of the tribunal to refuse
 “to grant a certificate.” (*Per Lord Dewar.*)

*Smith v. Dennystown Forge Company,
 Limited, 1916, S.A.R., vol. i., p. 13.*

Transfer to More Skilled Work.

A skilled ironworker was working as a carter. A local tribunal granted him a leaving certificate, and laid down the principle that a skilled workman who is employed on unskilled work is entitled to obtain a leaving certificate if he can satisfy the tribunal that he is offered the opportunity of applying his skill to the manufacture of munitions elsewhere. In an appeal the appeal judge said of this proposition—“I think that may be a convenient working rule, and is probably a sufficient test to apply in most cases; but I agree with the appellants that it is not an accurate or complete statement of the principle which ought to guide tribunals in considering cases of this kind. The fact that a workman is able and willing to undertake skilled work is of very great importance, but it is not necessarily conclusive. It is possible, for example, that a man employed as a labourer might be indispensable in one establishment, whilst his services—even in skilled work—might be of minor importance, from the national point of view, in another establishment. The question always is where can

Leaving Certificate—continued.

“he render best service, and to determine that question the
“*whole* facts of the case, including, of course, the important
“fact that he has special skill, ought to be considered. (*Per*
Lord Dewar.)

Scottish Tube Company, Limited v. M'Gillivray, 1916, S.A.R., vol. i., p. 16.

A skilled puddler was attached to ironworks as a bye-turn man. This was intermittent work, and, having secured elsewhere an offer of regular work, he sought a leaving certificate to enable him to take up the new employment. *Held* that he was entitled to a certificate, it being in the national interest that a man of skill should be engaged in constant, rather than occasional, employment.

Scottish Iron and Steel Company v. Hands, 1916, S.A.R., vol. i., p. 1.

Desire to Join the Army.

A workman applied for a leaving certificate, on the ground that he wanted to join the army. He held a war service badge, and a certificate of exemption from military service in respect of being engaged in munitions work in a controlled establishment. *Held* that a local tribunal could not entertain a desire to join the army as a ground of application for a leaving certificate, because the only purpose of a leaving certificate is to enable a man to obtain munitions work elsewhere; and a certificate is not required to enable a man to join the army, his proper course being to make application to have his exemption cancelled, and, that not being a matter for a munitions tribunal to deal with, a certificate which had been granted by a local tribunal was accordingly cancelled. “What the tribunal has to take into consideration is whether “the workman desires to undertake a different class of work. “The result of giving a leaving certificate to the complainant “is to allow him, if he changes his mind after obtaining the “certificate, and does *not* join the army, to obtain work

Leaving Certificate—*continued.*

"elsewhere, possibly not munitions work at all." (*Per* Mr. Justice Atkin.)

Norris v. Lancashire Dynamo and Motor Company, Limited, 1916, E.A.R., vol. i., p. 98.

Desire to Leave the Country.

Employers, through representatives in Copenhagen, engaged there a Dane to come to this country to do munitions work, for the duration of the war the employers said, for a period of six months the workman said. He came, and worked for six months, and then he applied for a leaving certificate to enable him to return to Denmark. The local tribunal granted him a certificate. On appeal it was held that to enable him to return to Denmark was not a valid ground of application, and that the application should have been refused, the purpose of the leaving certificate scheme of the Act being to prevent a workman leaving munitions work in this country and going to other work in this country of less national importance.

Ryberg v. Lanston Monotype Corporation, Limited, 1916, E.A.R., vol. i., p. 151.

Canadian Workmen.

Workmen in Canada made contracts there with the Board of Trade to come to this country and serve for a minimum period of six months. At the end of six months they desired to leave the establishment where the Board of Trade had placed them, and obtain work elsewhere. With this object they applied for leaving certificates, which the local tribunal refused to grant, on the ground that they had no jurisdiction. On appeal it was held that the workmen were entitled, on the expiry of the six months' service contracted for, to obtain leaving certificates, unless the employer had reasonable

Leaving Certificate—*continued.*

grounds for withholding them, and that the local tribunal ought to have considered the applications.

Losh, &c. v. Vickers, Limited, 1916, E.A.R.,
vol. i., p. 76.

Workmen Suspending Work.

Workmen had a dispute with employers on a Friday, regarding extra pay for Sundays, holidays, and overtime. They ceased work that afternoon. Next morning they returned to the establishment to resume work, but were not allowed to start. On Tuesday following the refusal to allow them to start was repeated. They asked for leaving certificates, and were refused, the employers contending that the men had terminated their employment. A local tribunal awarded them compensation. An appeal was dismissed—"The tribunal found that the action of the men did not terminate their employment. It does not follow, because there is a dispute between workmen and their employer, and the workmen cease work for a few hours, that they have thereby terminated their employment. It is true that workmen may by their conduct terminate their employment, but the mere staying away from work for a few hours will not *ipso facto* put an end to their contract of service, although it may be a good ground for dismissing them. It seems to me upon the facts of this case that there was a *bona fide* dispute between the complainants and the appellants, and the conduct of the complainants was not of itself such as to terminate their employment, though it might perhaps justify the appellants in dismissing them; and therefore the appellants were not justified in refusing to give leaving certificates to the men; and consequently the decision of the tribunal in awarding compensation to them was correct." (*Per Mr. Justice Atkin.*)

Stierlin, &c. v. General Stores and Munitions Company, Limited, 1916, E.A.R., vol. i.,
p. 124.

Leaving Certificate—*continued.*

Form of Complaint.

A workman applied to a local tribunal for a leaving certificate. Under the heading "grounds upon which the complaint is made," he filled in only a complaint about wages. At the hearing, evidence in regard to other matters was led, the employer's representative not objecting. A certificate was granted. *Held* on appeal (1) that the statute is complied with if the complaint bears that a leaving certificate was unreasonably refused; (2) that a local tribunal is entitled to inquire into the whole circumstances; (3) that if the complainant has not disclosed his whole grounds in the complaint the employer may ask for an adjournment; but (4) that, if he does not do so, he is not entitled to afterwards lead proof before the appeal judge. "On the general question as to whether the tribunal was right in hearing evidence on the whole case, I am of opinion that it was. It is, of course, very desirable and convenient for the parties, and the tribunal, that the grounds upon which the complaint is founded should be clearly and fully stated; but a workman cannot be expected to present his case with legal precision, and accordingly the Act does not require him to furnish any details at all. It evidently assumes that he may frequently not have the benefit of legal assistance, and accordingly clause 7 as amended, and read with the relative rule (4), provides that where he has failed to obtain a certificate from his employer he may lodge a complaint with a municipal tribunal. There is nothing said about stating his ground of complaint. It is sufficient if he lodges a complaint. The workman in this case did so, stating that a certificate had been unreasonably refused. That was the essential matter, and I think it was sufficient. Then the clause provides that, where a workman has lodged a complaint, the tribunal may examine into the case. The tribunal did so in this case, and heard all that both parties had to say. I think they took the proper course, and I have no reason to believe that they did not reach a just conclusion." (*Per* Lord Dewar.)

S. 7 (2), p. 69.

Rule 4, p. 102.

Inglis & Co., Limited v. Walker, 1916, S.A.R.,
vol. i., p. 10.

Leaving Certificate—*continued*.

Second Application on Same Grounds.

A workman, recently out of his apprenticeship, sought in August a leaving certificate in order to go to sea as a marine engineer. Although this was the only ground stated in the complaint, the question of wages was raised before the tribunal, which inquired into what was the full standard rate of his trade, what he was being paid, and what he expected to get as a marine engineer. A certificate was refused by the tribunal. In September the workman again applied for a leaving certificate, stating this time as his ground that he had recently completed his apprenticeship and desired to obtain the full standard rate of wages applicable to fully qualified workmen in his trade or occupation. The local tribunal refused a certificate, in respect that, there being no change of circumstances, and the tribunal having fully considered all the circumstances, including the ground now stated, in the previous application, only a few weeks before, they were not bound to re-hear the application. On appeal this was confirmed. "The assessors found as a fact that the matters raised on the second complaint were the same as those before the tribunal on 31st August, and that no new circumstance had occurred in the interval to alter the workman's case. The chairman accordingly held that the matter was *res judicata*, and the tribunal refused a certificate. I think it is a little unfortunate to talk about *res judicata* as regards an application of this kind, which is provided for the relief of workmen, and I do not think it wise to introduce into proceedings in connection with these complaints all the technical rules relating to causes of action, and the principles upon which, in an ordinary case between parties, one comes to the conclusion that a cause of action is or is not *res judicata*. But, at the same time, I think that, as a matter of mere administration, it is plain that the tribunal is not bound to hear *de novo* an application which has been already determined upon the same materials." (*Per Mr. Justice Atkin.*)

Swales v. Great Eastern Railway, 1916,
E.A.R., vol. i., p. 189.

VI. MUNITIONS TRIBUNALS.

Appearance by Letter.

Rule 12 (1)
 Proviso,
 p. 114, Eng.;
 p. 131, Scot.

A party to a complaint under the Leaving Certificate Regulations need not necessarily appear, but may send a letter to be considered by the local tribunal. Employers took advantage of this provision in a complaint by workmen claiming compensation for dismissal without a week's notice, and did not appear. The workmen did appear, and gave evidence on oath. The local tribunal awarded compensation. The employers appealed, and desired to lead evidence before the appeal tribunal, to justify the dismissal of the men, explaining in the notice of appeal that they did not attend before the local tribunal "owing to pressure of war work." The appeal was dismissed. "The appellants say they dismissed the workmen for careless and inefficient workmanship. That is a grave charge, which may involve serious consequences for workmen, and should never be made without conclusive evidence to support it. The workmen immediately complained, and the appellants received notice when the case was to be heard. If they had evidence to support the charges, they clearly ought to have produced it. They did not appear at the hearing, and were not represented. The workmen appeared, and gave evidence on oath. There was no evidence against this, except the appellants' statement in writing. Such a statement will always be considered; it is generally helpful, and sometimes sufficient; but in a case of this kind it was clearly insufficient. Proof of misconduct must always be clear and convincing, and in this case there was really no proof at all. The appellants state that owing to pressure of war work they were unable to attend the Court, and they ask for a further opportunity of leading evidence. I cannot give effect to that plea. The Court has wide powers, and may if it thinks right call for further evidence. But such powers ought to be exercised with discretion. Further proof can only be allowed in very exceptional circum-

Munitions Tribunals—continued.

“stances. I do not think the circumstances here are excep-
 “tional. I assume the appellants are working strenuously;
 “but so are all who are engaged in munitions work; and if
 “pressure of war work were to be accepted as a good
 “ground for permitting a new trial, there would be no
 “limit to new trials, and the work of the Munitions Court
 “would get into great confusion.” (*Per Lord Dewar.*)

Ritchie, Graham & Milne v. Dougan, &c.,
 1916, S.A.R., vol i., p. 8.

Evidence.

Where a complaint does not relate to a statutory offence,
 but to an employer’s refusal to grant a leaving certificate,
 the tribunal is entitled, but is not bound, to take evidence
 on oath. “I think if a munitions tribunal in a case of
 “this kind desires to examine any witness upon oath in
 “a particular case, there is power to do so, though it is
 “not expressly given by the munitions tribunals rules; but
 “I do not think it is necessary that it should be done.
 “I should think in the majority of cases such a procedure
 “would be very inconvenient. As far as complaints in
 “respect of offences under the Act are concerned, different
 “considerations arise.” (*Per Mr. Justice Atkin.*)

Kinder v. Delta Metal Company, Limited,
 1916, E.A.R., vol. i., p. 46.

“The Acts do not place any restrictions on the tribunals
 “in the matter of taking evidence. They are free to
 “ascertain the facts as they think right. Parties may
 “even—instead of attending the Court—send a written
 “communication, and the tribunal must take this into con-
 “sideration; and I understand that many cases are decided
 “on written communications, where neither party thinks
 “it necessary to appear in Court. I think it would be
 “unfortunate if such a reasonable and expeditious method
 “of settling simple disputes were interfered with. It is

Munitions Tribunals—continued.

“clearly intended that the facts, in ordinary cases, should
 “be ascertained informally, and the cases decided expediently.
 “But when a complaint which relates to an offence under the Act, which may involve the imposition
 “of a penalty, is under consideration, more formality is
 “required.” (*Per Lord Dewar.*)

The Scottish Tube Company, Limited v. M'Gillivray, 1916, S.A.R., vol. i., p. 16.

Evidence which might have been led before a local tribunal, but was not, will not be permitted to be led before the appeal tribunal. “The Court has wide powers
 “and may call for inquiry at any stage; but that is a power
 “which ought to be exercised with discrimination. This
 “is an appeal Court, which has the function of reviewing
 “the decisions of the Court below. All available information
 “ought to be placed before that Court. If it were to
 “become the rule that it was immaterial whether evidence
 “was led in the Court of first instance, or in this Court,
 “the work would get into hopeless confusion.” (*Per Lord Dewar.*)

Scottish Iron and Steel Company v. Hands, 1916, S.A.R., vol. i., p. 1.

VII. MUNITIONS VOLUNTEER.

1915 Act, s. 6,
p. 67.

1916 Act, s.
3-4, p. 68.

Volunteers who have entered into an undertaking with the Minister of Munitions to work at a controlled establishment are assigned to an employer who undertakes, *inter alia*, that the workman will be paid the district rate of wages, and also such sum as may represent the difference between that district rate and a higher rate the workmen may have been receiving before enrolment. The question arose whether a bonus comes into the reckoning. After fully describing the scheme of the statute as regards munitions volunteers,

Munitions Volunteer—continued.

and the formalities of enrolment, &c., the appeal judge said on the bonus question—" It appears to me that the question " is not concluded by merely calling part of the workman's " remuneration a bonus, whether it is an addition to an " hourly rate, or a weekly rate, or a piece rate, or whether " the bonus itself is calculated at a time rate or a piece rate. " It may be a sum certain, or capable of being made certain, " to which a workman may become entitled in the ordinary " course of his employment, on working more or less hard " or more or less long. It may, on the other hand, be purely " discretionary; something which the workman does not " become entitled to until it is awarded to him by the " employer, which the employer can therefore withhold when " he pleases. In the former case the bonus would, I think, " be rightly taken into account in calculating the district rate " of wages; in the latter case I think it would not." (*Per* Mr. Justice Atkin.)

Collins, &c. v. Brazil, Straker & Co., 1916,
E.A.R., vol. i., p. 27.

VIII. MUNITIONS WORK.

NOTE.—" Munitions work " is defined in section 9 (1) of 1916 Act, s. 9
the amending Act. (1), p. 82.

A workman in the service of a firm of wagon builders was substantially engaged upon the work of repairing wagons, although some part of his time was spent in lifting wagons. The wagons were for the use of collieries, for the conveyance of their coal on the railway main lines. The workman sought a leaving certificate on the ground that, as a skilled workman, he ought to be employed only at his own trade, and that wagon lifting in which he was partially engaged was labourer's work. The local tribunal held that the workman was not substantially employed on " munitions work." On appeal it was held that the work of repairing such wagons

Munitions Work—continued.

S. 9 (1) (a), p.
82.

is "munitions work." "Munitions work includes vehicles, " which, although not intended for use in war, are yet suitable and can be used for that purpose. The carrying on " of war is made possible by the carriage of war material " from innumerable factories to an almost endless length " of trenches, and by the carriage of raw materials, including " coal, to the factories, to enable them to manufacture war " material. The war cannot be carried on without the use " of railway wagons. To hold that railway wagons are " not vehicles *intended or adapted* for use in war would be " to put too narrow a construction upon the words." (*Per* Mr. Justice Atkin.) The case having been adjourned that the Minister of Munitions might be notified, further argument took place, in which it was contended that the *onus* of showing that a particular class of work is munitions work rests upon the party founding upon section 9 (1), and that, as regards the railway wagons in question, that, until it had been shown, as it had not, that they were likely to be used in war, it had not been made out that they were " adapted for use in war " any more than that they were adapted for use in peace. The appeal tribunal held that the words " for use in war " were not limited to use in the area of warlike operations, but that use at home brought the manufacture or repair of such wagons within the definition. " The question remains were they *adapted* for use in war. " What is the meaning of 'adapted' in this context? I " cannot accept the view contended for that 'adapted' here " means made fit by some alteration in structure or design. " Such a meaning assorts ill with the preliminary words " 'manufacture or repair of articles adapted,' and I think " is plainly inadmissible. 'Adapted for use' means, I think, " suitable for use." (*Per* Mr. Justice Atkin.) It was held accordingly that the workman was engaged on or in connection with " munitions work " within the meaning of section 9 (1) (a).

Shaw v. Lincoln Wagon and Engine Company, Limited, 1916, E.A.R., vol. i., p. 11.

Munitlons Work—continued.

Workmen employed in the locomotive repair works of a railway company, repairing railway engines, held to be employed on munitions work, in respect that railway locomotives are articles intended or adapted for use in war. "The question is whether or not railway engines used by a railway company are articles intended or adapted for use in war, so as to constitute the repair of such railway engines munitions work within the meaning of section 9 of the Act of 1916. I have already decided, in *Shaw v. Lincoln Wagon and Engine Company*, that ordinary coal wagons used on railways are such articles, and it seems to me to follow as a matter of course that railway engines are also articles which are adapted for use in war, within the meaning of the construction that I put upon those words in *Shaw v. Lincoln Wagon Company*." (Per Mr. Justice Atkin.)

S. 9 (1) (a), p. 82.

Briggs, &c. v. London and South-Western Railway Company, 1916, E.A.R., vol. i., p. 43.

Workmen were employed by a firm, the bulk of whose business was the manufacture of girders or constructional steel work, which they supplied to another firm who used the articles so supplied to them for the construction or repair of buildings in which munitions work was or was intended to be carried on. But, under their contract with the construction firm, the manufacturers of the steel girders, &c., not only supplied the constructional steel work, but undertook to fit it up. This was held to be substantially a contract for construction of buildings, and so to be munitions work within the meaning of section 9 (1) (b).

S. 9 (1) (b), p. 82.

Sandberg, &c. v. Dawnay & Sons, Limited, 1916, E.A.R., vol. i., p. 70.

IX. ORDER, 14th JULY, 1915.

(MEANING OF.)

See Order,
p. 171.

NOTE.—This order, made under section 7, applies the leaving certificate provision of the Act to “any establishment being a factory or a workshop the business carried on in which consists wholly or mainly in engineering, shipbuilding, or the production of arms, ammunition, or explosives, or of substances required for the production thereof.”

A firm manufactured insulating materials for use in connection with the construction of electrical machinery, and also, out of that material, made various parts of the electrical machinery itself, using in the process a number of machines; the bulk of the output being made to Admiralty and War Office specifications. *Held* that the work of this firm fell within “engineering” as that term is used in the order.

Mayne v. Micanite and Insulators Company, Limited, 1916, E.A.R., vol. i., p. 1.

A firm employed a workman without seeing a leaving certificate. He had come from the establishment of a firebrick and tile manufacturer. The local tribunal convicted the firm who had engaged him of contravention of section 7. On appeal this was reversed, on the ground that the order of 14th July, 1915, only applied to a factory or workshop, and that as the evidence showed that the workman had not been employed in a factory or workshop, but was employed in a fireclay mine, he did not require a leaving certificate, despite the fact that the mine was situated within the curtilage of the firebrick manufacturer, and that the fireclay mined was used to manufacture fire-

Order, 11th July, 1915—*continued*.

bricks, and they were used to line furnaces in which steel was produced for making shells.

Knowles v. Ollersett Collieries Company, Limited, 1916, E.A.R., vol. i., p. 63.

NOTE.—Since this decision an order has been made applying section 7 to an establishment manufacturing firebrick or silica brick. Order 813,
p. 178.

X. STRIKES.

A carting contractor held a standing contract to do the carting work for a controlled establishment doing munitions work. The carting contractor was not bound to send any particular men for this work, but, as matter of fact, six men had been for a long time allocated to this work, and, although they had been engaged and were paid by the carting contractor, they were daily, and wholly, engaged in the work of carting raw material into, and manufactured munitions out of, the munitions factory. Having a dispute with their own employer, the carting contractor, these six men ceased work. They were convicted by a general tribunal of contravening section 2 by taking part in a strike. On appeal it was held that they had been properly convicted, in respect that they were employed "*in connection with munitions work*" within the meaning of section 3. P. 61.

Preston, &c. v. Knox, 1916, S.A.R., vol. i., p. 39. P. 61.

XI. SUNDAY WORK.

NOTE.—Article 3 of the ordering of work regulations concludes—"but no proceedings to be taken for refusal to work on Sunday." Order, p. 147.

A workman in a controlled establishment was told to

Sunday Work—continued.

come out on Sunday. He did not say he would not, but he did not come. *Held* that he could not be prosecuted for absenting himself from work on Sunday.

Gloucester Railway Carriage Company v. Trapp, 1916, E.A.R., vol. i., p. 81.

A workman was told to come out on Sunday. He did come, but left without permission before the usual closing time. *Held* that the proviso to article 3 prevented his being prosecuted.

Thornycroft & Co., Limited v. Stenhouse, 1916, E.A.R., vol. i., p. 166.

XII. SUSPENSION OF TRADE RULES AND CUSTOMS.

A firm of engineers, before the war, had run their works on non-union labour, and they required every workman who entered their service to sign an undertaking that he would not join a union whilst he remained in their employ. In November, 1915, they became a controlled establishment. One of their workmen joined a union, and they dismissed him. The workman brought a complaint against them for attempting to induce their employees to comply with the rule not to join a union. It was held that this fell within section 4 (3), the rule in regard to not joining a union being one which might restrict employment. "It seems to me immaterial whether or not the rule is imposed from within or without, whether it is a rule made in the establishment to control people when they are in the establishment, or by a contract before they entered the establishment. The words 'restrict employment' are general words, and if there is a rule which does tend to prevent workmen from entering employment, who otherwise could reasonably be employed, that rule is, in

Suspension of Trade Rules and Customs—continued.

“ my opinion, a rule which tends to restrict employment.”
(*Per Mr. Justice Atkin.*)

Guillet v. Benthall & Co., Limited, 1916,
E.A.R., vol. i., p. 86.

**XIII. WAGES NOT EARNED FOR MORE THAN
TWO DAYS.**

1916 Act, s. 5
(2), p. 70.

Meaning of “Wages.”

Held that “wages” in section 5 (2) means usual wages, and that an employer cannot evade the section, when a stoppage of ordinary work becomes necessary, by offering other work at a lower rate of pay. “I think that the phrase, ‘no opportunity of earning wages,’ in section 5 (2) of the Act of 1916 must be read as meaning that the complainant workman has not had an opportunity of earning such wages as he might earn in his ordinary employment. It appears to me plain that the phrase cannot mean that, if the workman is paid any wages, at however low a rate, he is not entitled to complain. Nor can I read the sub-section as though it had said ‘no opportunity of earning reasonable wages.’ I cannot read the word wages in the sub-section, except by reference to the wages that the man was earning at his usual employment.” (*Per Mr. Justice Atkin.*)

Taylor & Co. v. Osborn & Co., 1916, E.A.R.,
vol. i., p. 163.

Meaning of “Two Days.”

Held that “days” means working days under normal circumstances, as contrasted with Sundays and recognised holidays; but “working days” is not limited to days on which an establishment is actually working, and may include days when for some purpose the works have to be closed.

*Bennett v. King’s Norton Metal Company,
Limited*, 1916, E.A.R., vol. i., p. 114.

Ground for Claim under Section 5 (2).

No question of compensation can arise under section 5 (2), unless a leaving certificate has been unreasonably refused.

“Section 5 (2) of the Act was not, in my opinion, designed or intended to provide compensation for workmen who had been unable to earn wages, owing to the breakdown of machinery or the like. Such an occurrence is incidental to all employment, and causes loss to both the employer and workman, and each must bear his own loss; but the section provides that a workman must not be subjected to such a misfortune for a period of more than two days. After the two days have elapsed, he may demand, not compensation, but a leaving certificate from his employer, in order that he may transfer his services; and, if the employer is still unable to provide employment, he must give the certificate forthwith. If he does, no question of compensation can arise; but if the certificate is refused, the workman may then complain to the local munitions tribunal that the refusal was unreasonable, and, if the tribunal consider that the complaint is well founded, they may themselves issue the certificate, and, *in addition*, order the employer to pay to the workman such sum (not exceeding £5) as they think fit. The money payment which the tribunal has power to award is intended, not as compensation for the loss of two days' wages, but to stimulate employers to be prompt and reasonable in permitting workmen whom they cannot fully employ to find work elsewhere, and to compensate the workman for any loss he may have sustained in respect of unreasonable refusal to issue the certificate.” (*Per Lord Dewar.*)

Waugh v. Duncansons, Limited, 1916, S.A.R., vol. i., p. 46.

Accordingly a workman who obtains a leaving certificate immediately on asking for it, does not come within section 5 (2) at all.

Doulton & Co. v. Brown, 1916, S.A.R., vol. i., p. 48.

Wages not earned for more than two days—*continued*.

Machinery Breakdown.

Employers are not bound to grant leaving certificates immediately upon the occurrence of a breakdown; but are entitled to wait to see whether repairs occupy more than two days. If they do not, section 5 (2) does not come into operation.

Waugh v. Duncansons, Limited, 1916, S.A.R.,
vol. i., p. 46.

That the closing of works is necessitated by breakdown of machinery is no answer to a demand for leaving certificates, made after the lapse of two days.

Acme Steel and Foundry Company v. Stafford, &c., 1916, S.A.R., vol. i., p. 53.

Holidays.

Workmen held entitled to leaving certificates and compensation on being refused, where, against the workmen's desire, works had been closed by employers for holidays, at a time when it had been usual in pre-war times to close, but which the Government had recommended should this year not be regarded as holidays.

Merry & Cuninghame v. Paterson, &c., 1916,
S.A.R. vol. i., p. 28.

Where the bulk of the employers concur in works being closed for holidays, the employers are not acting unreasonably in refusing to grant leaving certificates to a small minority who desire to continue at work.

Abbott & Rea v. Cammell, Laird & Co., 1916,
E.A.R., vol. i., p. 199.

Associated Ironmoulders v. Atlas Foundry Company Limited, 1916, S.A.R., vol. i.,
p. 43.

Wages not earned for more than two days—continued.

Days substituted by the Government as postponed holidays in lieu of the customary holidays are not "working days," and workmen not entitled to obtain leaving certificates or compensation in respect of the works being closed on these days.

Abbott & Rea v. Cammell, Laird & Co., 1916,
E.A.R., vol. i., p. 199.

1915 Act,
Sch. II., s. 7,
p. 85.

XIV. WORKING CONDITIONS CHANGED.

Where a formal order had not been made, but the Minister of Munitions had by circular directed certain procedure, and a local tribunal held that workmen had, in point of fact, been made aware of intending changes of conditions of work, it was held that the statute had been complied with, whether notice had been given being a question of fact, and not a question of law.

Binns v. Nasmyth, Wilson & Co., Limited,
1916, E.A.R., vol. i., p. 169.

XV. WORKING RULES: BREACH OF.

A workman can be convicted only of the offence set forth in the complaint, but if he, without asking an adjournment, elects to answer to some other offence from that notified, he is held to waive his objection to the complaint.

Shelton Iron and Steel Company v. Hassall,
1916, E.A.R., vol. i., p. 208.

INDEX.

INDEX.

ABANDONMENT:

	PAGE
Of appeal, - - - - -	121, 138
<i>Abbott, &c. v. Cammell, Laird & Co.</i> (s. 5 (2), holidays), - - - - -	
	227, 228

ABSENCE FROM WORK:

By leave or reasonable cause, - - -	148
Cause must be immediately reported, - -	148

<i>Acme Steel Company v. Stafford</i> (s. 5 (2), machinery breakdown), - - - - -	
	26, 227

ADAPTED FOR USE IN WAR:

Meaning of term in 1916 Act, s. 9, - - -	6-220
--	-------

ADMIRALTY:

May apply Part II. of Act to docks, &c., - -	73
But orders applying s. 7 to be made by Minister of Munitions, - - - - -	73
Orders made by Admiralty applying s. 7, - -	177

<i>Anderson v. Reid</i> (compensation for dismissal), -	23, 206
---	---------

APPEAL :

	PAGE
Right of appeal, - - - - -	119, 136
On question of law, or mixed fact and law,	119, 136
Abandonment of, - - - - -	121, 138
Summary dismissal of, - - - - -	121, 138
Chairman's report in, - - - - -	122, 139
Notice of, - - - - -	119, 120
Minister of Munitions may appear in, -	123, 141
Penalties suspended pending, - - - - -	123, 140
Determination of, - - - - -	122, 140
Decision final, - - - - -	- 79
Result to be notified, - - - - -	126, 144
On case reserved, - - - - -	136, 140
Re-hearing, - - - - -	124, 142
Costs in, - - - - -	125, 143
Who may appeal for parties, - - - - -	123, 141
Summary of appeal decisions, - - - - -	199-228

APPEALS OFFICER :

Appointment of, - - - - -	118, 137
Duties of, -- - - - -	122, 139

APPEAL JUDGE :

Nomination of, - - - - -	51, 119, 136
Powers of, - - - - -	52, 124, 142

APPEAL TRIBUNAL :

Constitution of, - - - - -	79
Open Court, - - - - -	122, 140
Notices of appeal, - - - - -	137, 140

APPEAL TRIBUNAL—*continued.*

	PAGE
Respondents' statement, - - - - -	139
Notice of hearing, - - - - -	123, 140
Appearance, - - - - -	123, 141
Written statement, - - - - -	123, 141
Rules—England, &c., - - - - -	118-126
Rules—Scotland, - - - - -	136-144
Remedies for non-compliance with Rules, -	126, 144

APPRENTICES :

Completion of apprenticeship, - - -	71, 202
General position of, - - - - -	12, 199
Leaving Certificates to, - - - - -	13, 199, 200
Standard rate of wages (meaning of), -	13, 201

ARBITRATION :

Differences to be settled by, - - - - -	60
Special Arbitration Tribunals, - - -	- 35, 60
Reference for advice, - - - - -	35
Court of Arbitration, - - - - -	- 34, 84
Proclamation may apply Part I. of Act, -	- 62
Award may be retrospective, - - - - -	- 35, 60
Is binding on both parties, - - - - -	- 35, 60
Penalty for failing to comply with, - -	43, 48, 60

ARBITRATION ACT, 1889 :

Does not apply, - - - - -	61
---------------------------	----

ARMY COUNCIL :

Orders by, under s. 7, - - - - -	178
----------------------------------	-----

ARMY RESERVE MUNITIONS WORKERS:

	PAGE
General position, - - - - -	11
Notes for guidance of employers, - -	185-195
Employment agreement forms, - -	193-194
Dismissal and transfer, - - - - -	188
Absence from work, - - - - -	189
Leaving Certificates, - - - - -	186
Working conditions, - - - - -	188
Overtime and nightshift, - - - - -	191
Wages and allowances, - - - - -	185
Time rates, - - - - -	189
Piecework rates, - - - - -	190
Tonnage rates, - - - - -	191
Subsistence allowances, - - - - -	191-192
Children allowances, - - - - -	193

ASSESSORS IN MUNITIONS TRIBUNALS:

Appointment of, - - - - -	109, 127
Female, if women involved, - -	79-110, 127
Decision by, if agreed, unless question of law,	79, 116, 134

Associated Ironmoulders v. Atlas Foundry Company

(s. 5 (2), holidays), - - - - -	227
---------------------------------	-----

AUDITED ACCOUNTS:

Meaning of, in Excess Profits Rules, - - -	90
--	----

AWARD:

In arbitration binding on both parties, - -	- 35, 60
Penalty for failure to comply with, - -	- 43, 48

INDEX.

235

BAD TIMEKEEPING :

	PAGE
Cases relating to, - - - - -	203

BADGES :

Rules relating to, - - - - -	171-174
Penalty for breach of Rules, - - - - -	- 47, 49

BALANCE SHEET :

Of Controlled Establishment—Adjustment of, -	97
--	----

BALLOON FABRIC :

“Munitions work,” - - - - -	181
Order, 14th February, 1916, - - - - -	181

BARRACKS :

Order, 12th November, 1916, applying s. 7 to work at, - - - - -	178
--	-----

<i>Bennett v. King's Norton Metal Company</i> (s. 5 (2), meaning of “days”), - - - - -	25, 26, 225
---	-------------

BOARD OF TRADE :

Powers and duties in trade disputes, - -	59-60
--	-------

<i>Boyns v. Mowlem & Co.</i> (compensation for dismissal),	206
--	-----

BONUS :

	PAGE
Meaning of, - - - - -	10
When reckoned as part of wages, - - -	219
<i>Binns v. Nasmyth, Wilson & Co.</i> (working conditions changed), - - - - -	17, 228

BREAKDOWN OF MACHINERY :

For more than two days, - - - - -	26
Leaving certificate cannot be refused because of, -	227
<i>Briggs, &c. v. London and South-Western Railway Company</i> (Munitions work), - - -	6, 221

BUILDINGS :

When "Munitions work," - - - - -	7, 82
----------------------------------	-------

CAMP (HUTTED) :

When under s. 7, - - - - -	178
Order, 12th November, 1916, - - - - -	178

CARD CLOTHING :

"Munitions work," - - - - -	181
Order, 12th May, 1916, - - - - -	181

CERTIFIED MUNITIONS WORK :

By Board of Trade, - - - - -	6, 82
By Minister of Munitions, - - - - -	7, 82
By Admiralty, - - - - -	7, 82

INDEX.

237

CHAIRMAN OF MUNITIONS TRIBUNAL :

	PAGE
Appointment of, - - - - -	77
Duties of, - - - - -	109, 126

CHANGES IN WORKING CONDITIONS :

Workmen to be notified of, - - - - -	85
Not to prejudice workmen, - - - - -	84
Differences relating to settlement of, - - - - -	85

CIVIL DILIGENCE :

Munitions Tribunal order is warrant for, -	115, 132
--	----------

CLERK TO MUNITIONS TRIBUNAL :

Appointment of, - - - - -	117, 135
Duties of, - - - - -	113, 117, 130, 135

Colley v. Minister of Munitions (bad timekeeping), 30, 203

Collins v. Brazil, Straker & Co. (munitions volunteer), - - - - - 10, 219

COMMITTEE ON PRODUCTION :

Reference to, - - - - -	84
-------------------------	----

COMPANY :

Directors, &c., of—Liable for Company offence, -	48, 79
--	--------

COMPLAINT :

	PAGE
To be in writing, - - - - -	111, 128
May include several defendants, - - -	111, 129
Transfer of, - - - - -	111, 129
Notices, - - - - -	112, 114, 129
May of consent be dealt with despite want of notice, - - - - -	114, 132
Vexatious or frivolous, - - - - -	117, 134

COMPENSATION FOR DISMISSAL :

From establishment to which s. 7 applies, - -	70
If week's notice or week's wages not given, -	70
Ship repair work excepted, - - - - -	70
Who may claim, - - - - -	206, 208
Claim to be timeously made, - - - - -	- 28-205
Assessment of, - - - - -	- 23-206

COMPLETION OF APPRENTICESHIP :

Meaning of, - - - - -	202
-----------------------	-----

CONFIDENTIAL INFORMATION :

Penalty for disclosing, - - - - -	49
-----------------------------------	----

CONTRACTOR OR SUB-CONTRACTOR :

Penalties applicable to, - - - - -	- 43, 44
------------------------------------	----------

CONTROLLED ESTABLISHMENT :

Meaning of, - - - - -	37
What establishments may be controlled, - -	39
Government Factories, - - - - -	63

CONTROLLED ESTABLISHMENT—*continued.*

	PAGE
Part where no Munitions work done may be excepted, - - - - -	66
Making of order, - - - - -	62
Effect of order, - - - - -	39
Excess profits to Exchequer, - - - - -	63
Revocation of order, - - - - -	66
Ascertainment of profits, - - - - -	66
Owner to furnish information to Minister of Muni- tions, - - - - -	40
Inspector may enter, - - - - -	- 41, 75
Penalty for obstructing him, - - - - -	47
Standard profits, - - - - -	91
Excess Profits Rules, - - - - -	89-98
Ordering of Work Regulations, - - - - -	147
Penalty for failing to comply with, - - - - -	48
Record to be kept of changes of working condi- tions, - - - - -	41
Leaving Certificate Regulations—Apply to, -	177
Order under s. 7, 1st May, 1916, - - - - -	177

COSTS :

In discretion of Chairman, - - - - -	116, 134
May be enforced as a fine, - - - - -	117, 135
In vexatious and frivolous complaints, -	117, 134

COUNSEL :

May not plead before Local Tribunal, -	116, 134
--	----------

COURT OF ARBITRATION :

Constitution of, - - - - -	84
Board of Trade may refer difference to, -	60

	PAGE
<i>Curnock v. Butler & Co.</i> (apprenticeship), -	13, 201

DAYS :

Meaning of in (s. 5 (2), 1916 Act), - -	25, 225
---	---------

DEFENCE OF REALM REGULATIONS :

“Munitions offence”—Meaning of, - - -	55
Powers under, of Minister of Munitions, - -	55

DELEGATION OF POWERS BY MINISTER OF
MUNITIONS :

To any other Government Department, - -	83
---	----

DEPARTURE FROM WORKSHOPS PRACTICE :

For period of the war only, - - - -	84
-------------------------------------	----

DISCHARGED WORKMAN :

To obtain Leaving Certificate forthwith, - -	69
--	----

DILUTION OF LABOUR :

Scheme of, - - - - -	14
Duties of Dilution Commissions, - - - -	15
Not to affect rates adversely, - - - -	85

DILUTION OF LABOUR—*continued.*

	PAGE
Female Labour Orders—	
(a) Women of 18 on men's work, - -	151
(b) Women under 18 on men's work, - -	156
(c) Women on aircraft woodwork, - -	158
(d) Women on work not men's work, - -	160
Semi-skilled and unskilled labour, - - -	166

Dines v. Mumford (apprenticeship), - - 13, 200

DISCLOSING INFORMATION :

Obtained for use of Minister of Munitions—	
Penalty for, - - - - -	49

DISMISSAL OF WORKMEN WITHOUT NOTICE :

To be reported to Labour Exchange, - -	103
Justification for, - - - - -	22, 204
Compensation for dismissal, - - - - -	22, 70
Exceptions, - - - - -	70
Time for claiming compensation, - - -	205
Assessment of compensation, - - - - -	206

DISTURBANCE :

Creating in Controlled Establishment, an offence,	148
---	-----

DOCKS AND HARBOURS :

Admiralty may apply Part II. of Act to, - -	73
But s. 7 can be applied only by Minister of Munitions, - - - - -	73

DOCKS AND HARBOURS—*continued.*

	PAGE
Order, 1st July, 1916, - - - - -	177
Work at, is "Munitions work," if certified by Admiralty, - - - - -	181
Admiralty Order, 13th May, 1916, - - -	181

Donaldson v. Kearns & Co. (apprenticeship), - 13, 202

DOCUMENTARY EVIDENCE ACTS :

Are applicable, - - - - -	81
---------------------------	----

DOLOMITE (SHRUNK) :

"Munitions work," - - - - -	181
Order, 29th January, 1917, - - - - -	181
Establishment manufacturing is under s. 7, -	178
Order, 29th January, 1917, - - - - -	178

Doulton & Co. v. Brown (s. 5 (2), compensation), 25, 226

DRUNKENNESS :

In Controlled Establishment is an offence, -	148
--	-----

ELECTRICITY UNDERTAKINGS :

"Munitions work," if certified by Minister, -	182
Order, 1st May, 1916, under s. 7, - - - - -	177
Order, 13th May, 1916, under s. 9, - - - - -	182

INDEX. 243

EMPLOYMENT OF CHILDREN ACT, 1903 :

	PAGE
Munitions Act does not affect, - - - -	72

EMPLOYMENT AFTER THE WAR :

Priority of engagement, - - - -	85
---------------------------------	----

EMPLOYMENT :

Of workman without seeing Leaving Certificate—Penalty for, - - - -	45
“ On or in connection with ” Munitions work—	
Meaning of, - - - -	61, 223
Justification for leaving, - - - -	70
Withheld for more than two days—Effect of,	70, 225

EMPLOYERS' OFFENCES :

See “ Penalty.”

ENGINEERING :

Meaning of, in Order of 14th July, 1915, -	222
Terms of Order, - - - -	177

EXCESS PROFITS :

In Controlled Establishments, - - - -	38
Power to make Rules, - - - -	67
Rules, - - - -	89-98

EXEMPTION CERTIFICATE :

Leaving Certificate Rules, 4 (b), - - - -	102
Tribunal Rules—England 12 (7), - - - -	115
Tribunal Rules—Scotland 12 (8), - - - -	133

EXPLOSIVES :

	PAGE
Material for manufacture of, is "Munitions work,"	181
Order, 14th February, 1916, - - - -	181
Establishment manufacturing is under s. 7, -	177
Order, 14th July, 1915, - - - -	177

EVIDENCE :

Not necessarily sworn testimony, - - -	217
--	-----

FACTORIES :

May be controlled wholly, or partially, - -	66
Power to use under Defence of Realm Act, -	2
Government factories may be controlled, -	63
When are under s. 7, - - - -	178
Order, 6th September, 1916, - - - -	178

FACTORY AND WORKSHOPS ACTS :

Not affected by Munitions Acts, - -	13, 72
-------------------------------------	--------

FAIR WAGES CLAUSE :

Terms of, - - - -	29
Whether observed, to be considered in Leaving Certificate applications, - - - -	71
Onus of proof of non-observance, - - -	208

FALSE LEAVING CERTIFICATE :

Penalty for granting, - - - -	46
-------------------------------	----

INDEX.

245

FALSE REPRESENTATION :

	PAGE
Punishable by imprisonment if object to evade Act, - - - - -	76
Penalty, - - - - -	46, 47

FEMALE LABOUR :

Power to make orders, - - - - -	72
Orders relating to, - - - - -	151-165
Women of 18 and over on men's work, - - -	151
Women under 18 on men's work, - - -	156
Women on aircraft woodwork, - - -	158
Women on work not recognised as men's work, - - - - -	160-163
Special Arbitration Tribunal, - - - - -	60
Female assessor, - - - - -	5, 127
Penalty for failing to observe Minister's directions as to, - - - - -	46

FINES :

Recovery of, - - - - -	77, 112, 130
Deduction from wages, - - - - -	113, 130
To be paid into Exchequer, - - - - -	117, 135

FIREBRICK :

“Munitions work,” - - - - -	181
Order, 14th February, 1916, - - - - -	181
Establishment manufacturing is under s. 7, - - -	178
Order, 23rd November, 1916, - - - - -	178

<i>Foden v. Jacquet, Maurel & Condac</i> (compensation for dismissal), - - - - -	207
--	-----

FIRE BRIGADE APPLIANCES :

	PAGE
“ Munitions work ” if certified, - - -	182
Order, 13th May, 1916, - - -	182

FORMS :

Leaving Certificate, - - -	105
Report to Labour Exchange, - - -	105
Agreement No. 1—Army Reserve Munitions Workers, - - -	193
Agreement No. 2—Army Reserve Munitions Workers, - - -	194

<i>Gane v. Rees Roturbo Company</i> (compensation for dis- missal), - - -	18, 206
<i>Gane v. Rees Roturbo Company</i> (form of Leaving Cer- tificate), - - -	18, 209

GAS :

Undertaking is “ Munitions work ” if certified, -	182
Order, 13th May, 1916, - - -	182
Establishment supplying is under s. 7, - - -	177
Order, 25th July, 1916, - - -	177

GENERAL MUNITIONS TRIBUNAL :

Constitution of, - - -	77
Jurisdiction, - - -	77, 110, 127
<i>See</i> “ Munitions Tribunals.”	

INDEX.

247

	PAGE
<i>Gleaves v. White & Poppe</i> (justification for dismissal),	204
<i>Gloucester Railway Carriage Company v. Trapp</i> (Sunday work), - - - - -	223

GLASS :

For constructional purposes is "Munitions work,"	181
For optical purposes is "Munitions work," -	181
Order, 14th February, 1916, - - - - -	181

<i>Gosnell v. Minister of Munitions</i> (bad timekeeping), -	203
--	-----

<i>Guillet v. Benthall & Co.</i> (trade customs), - - - 5,	224
--	-----

HEAT SUPPLY :

"Munitions work" if certified by Minister, -	182
Order, 13th May, 1916, - - - - -	182
Establishment supplying under s. 7, - - - - -	177
Order, 25th July, 1916, - - - - -	177

HOLIDAYS :

To be observed if ordered by Minister, - - -	148
Claims in respect of (under s. 5 (2)), - - -	227

HOURS OF WORK :

Differences relating to, under arbitration provisions, - - - - -	61
To be observed by employees in Controlled Establishment under penalty, - - - - -	148

	PAGE
<i>Inglis & Co. v. Walker</i> (form of complaint), -	52, 214

HUTTED CAMP :

When under s. 7, - - - - -	178
Order, 12th November, 1916, - - - - -	178

INFORMATION :

Owner of Controlled Establishment to furnish to Minister, - - - - -	40, 66, 74
Penalty for disclosing to others, - - - - -	48
Penalty for failing to give information as to workers, machines, &c., - - - - -	47

IMPRISONMENT :

Not competent for non-payment of fine, - - - - -	80
Exceptions to rule, - - - - -	76

INSPECTOR :

Powers of, - - - - -	- 41, 75
Must produce warrant if required, - - - - -	75
Obstruction of, is offence, - - - - -	75
Penalty for obstructing, - - - - -	47

INSULATING MATERIAL :

Manufacture of, held to be "engineering" work under Order of 14th July, 1915, - - - - -	222
--	-----

INDEX. 249

INTERPRETATION ACT, 1889 :

	PAGE
Applies to Munitions Tribunal Rules, - -	118, 135
<i>Kinder v. Delta Metal Company</i> (evidence), -	20, 217
<i>Knowles v. Ollersett Collieries Company</i> (Order, 14th July, 1915), - - - - -	222

LABOUR :

Dilution of scheme, - - - - -	14
Female—Orders relating to, - - -	151-165
Semi-skilled and unskilled—Orders relating to, -	166
Exchange—Report to, - - - - -	28, 70, 103
Differences to be reported to Board of Trade, -	59
For settlement by arbitration, - - - - -	59-62
Work to continue pending settlement, - -	62

LAW :

Question of, to be decided by Chairman of Tri- bunal, - - - - -	79, 116, 134
Appeal competent upon question of, - -	119, 136

LEAD COMPOUNDS :

Manufacture of, is "Munitions work," - -	181
Order, 14th February, 1916, - - - - -	181

LEAVING CERTIFICATE :

Purpose of, - - - - -	- 17, 30
Rules relating to, - - - - -	101-105

LEAVING CERTIFICATE—*continued.*

	PAGE
Form of, - - - - -	103, 105, 209
Statutory form must be observed, - - -	18, 209
Penalty for granting false, - - - - -	46
If granted when asked, no claim for compensation,	226
Discharged workman entitled to obtain, - -	69
Local Munitions Tribunal may grant, - -	20, 70
Or order employer to grant, - - - - -	70
Complaints of unreasonable refusal to grant,	209-211
Employing workman without seeing, - - -	69
Apprentice—Position of, - - - - -	12, 199
Canadian—Position of, - - - - -	212
Dane—Position of, - - - - -	212
Transfer to more skilled work, - - - - -	210
Matters to be considered by Tribunal, - -	71
National interest first consideration, -	115, 133
Workman should remain at work, - - - -	209
Second application for, on same grounds, -	215
Penalty for tampering with, - - - - -	-49, 76
Penalty for personating holder of, - - -	-49, 76
Penalty for parting with possession of, -	-49, 76
Penalty for breach of Rules, - - - - -	104
Orders made under s. 7 (1) applying Leaving Cer- tificate provision to establishments, -	177-178

LEGAL PROCEEDINGS :

Restricted to Munitions Tribunals, - - -	50
Exceptions, - - - - -	76

LETTER :

May be sent to Tribunal in lieu of appearance,	21, 114, 132
--	--------------

LIGHT SUPPLY :

	PAGE
Is "Munitions work" if certified by Minister, -	182
Order, 13th May, 1916, - - - - -	182
Establishment supplying is under s. 7, - -	177
Order, 25th July, 1916, - - - - -	177

LIME :

Manufacture of, is "Munitions work," - -	181
Order, 13th May, 1916, - - - - -	181
Establishment manufacturing is under s. 7, -	178
Order, 4th December, 1916, - - - - -	178

LOCAL MUNITIONS TRIBUNAL :

Constitution of, - - - - -	77
Jurisdiction, - - - - -	110, 127
Parties may send letter to, - - - - -	114, 132
Counsel or solicitor not to appear, - -	116, 134
<i>See "Munitions Tribunals."</i>	

LOCK-OUT :

Meaning of, - - - - -	81
Offence to take part in, - - - - -	61
Penalty, - - - - -	43

<i>Losh, &c. v Vickers, Limited</i> (Leaving Certificate— Canadians), - - - - -	212
--	-----

LOCOMOTIVES :

Repair of railway is "Munitions work," - -	221
--	-----

	PAGE
<i>M'Lean v. Yarrow</i> (compensation for dismissal),	28, 205
<i>M'Niell v. John Ross & Co.</i> (compensation for dismissal),	- - - - - 206

MACHINERY :

Breakdown of, does not exclude claim under s. (2), 227

M'Kie & Baxter v. Barrie (apprenticeship), - 12, 199

MAGNESITE BRICK :

Manufacture of, is "Munitions work," - - 181
 Order, 14th February, 1916, - - - - 181

Mayne v. Micanite and Insulators Company
 ("engineering"), - - - - - 6, 222

MATERIAL :

For Munitions work is "Munitions work" if certified, - - - - - 82

MEDICAL CERTIFICATE :

Should be produced at time of absence from work,
 and should be specific, - - - - - 203

Merry & Cuninghame v. Paterson, &c., (s. 5 (2),
 holidays), - - - - - 26, 227

MINISTER OF MUNITIONS :

Creation of office, - - - - - 1
 May delegate powers, - - - - - 83

MINISTER OF MUNITIONS—*continued.*

	PAGE
May appear in any appeal, - - -	123, 141
May make Control Order, - - - -	62
Must be consulted regarding changes of wages, &c., - - - - -	63
May withhold his consent, - - - -	63
May direct settlement by arbitration, - -	63
May make Ordering of Work Regulations for Controlled Establishment, - - -	65
Penalty for failure to comply with, - - -	47
May require information from owner, - - -	66, 74
May appoint inspectors to obtain it, - - -	75
May exempt part of establishment from control, -	66
May adjust profits with owner, - - - -	67
Or, if owner desires, refer to Referee, - -	67
May make Rules for ascertaining excess profits, -	67
May agree with Munitions Volunteer, - - -	67
May make orders under s. 7 relating to Leaving Certificates, - - - - -	69, 73
May make Rules as to same, - - - -	71
May make orders as to female labour, and semi- skilled, in Controlled Establishments, - -	72, 65
May make Rules as to badges, - - - -	72
May constitute Munitions Tribunals, - - -	78
May make Rules for regulating their procedure, and enforcement of their orders, - - -	78
May certify as Munitions work materials for manufacture or repair of Munitions work, -	82
May certify as necessary for Munitions work light, heat, water, or power supply or tram- way facilities undertakings, - - -	82
May certify as necessary in the national interest the repair of fire engines and fire brigade appliances, - - - - -	82
Powers of, under Defence of Realm Regulations, -	55

MINING :

	PAGE
Not within Munitions Acts, - - - -	8
Unless brought in by Proclamation, - - - -	9

MISCONDUCT :

Of workman justifies dismissal, - - - -	70
What is misconduct? - - - -	204, 205
May be pled, although at time of dismissal not known to employer, - - - -	205
Of employer or his agent may justify workman leaving, - - - -	70

MIXED LAW AND FACT :

Question of, appealable with leave, - - - -	119, 136
---	----------

<i>Morgan v. Fraser & Chalmers</i> (compensation for dismissal), - - - -	23, 206
<i>Mullins v. London, Brighton, and South Coast Railway</i> (fair wages clause), - - - -	29, 209

MUNITIONS OF WAR ACTS, 1915-16 :

Origin of, - - - -	1
Purpose of, - - - -	3, 53
Duration of, - - - -	83
Affect others than Muniton workers, - - - -	54
Text of Acts, - - - -	59-85

MUNITIONS OFFENCE :

Meaning of, under Defence of Realm Regulations, - - - -	55
---	----

MUNITIONS TRIBUNALS :

Constitution of, general and local, - - - -	77-78
Jurisdiction, - - - -	110, 127

MUNITIONS TRIBUNALS—*continued.*

	PAGE
Chairman, - - - - -	109, 126
Assessors, - - - - -	109, 127
Female assessor, - - - - -	110, 127
Clerk, - - - - -	117, 135
Minister may make Rules for, - - - - -	78
Complaint to be in writing, - - - - -	111, 128
Chairman may transfer complaint from a local to another, - - - - -	111, 129
Or with consent of Minister to a general, -	111, 129
Notice to appear, - - - - -	131
Counsel or solicitor not before local, -	116, 134
Cases to be heard in open Court, - - -	116, 134
Letter in lieu of appearance, - - - - -	132, 216
Purpose of letter, - - - - -	216
Evidence, - - - - -	112, 129-217
Decision by assessors if agree, - - - - -	116, 134
By chairman if disagree, or question of law in- volved, - - - - -	116, 134
Register of complaints to be kept, - - -	118, 135
Duplicate to Minister, - - - - -	118, 135
Appeal Tribunal. <i>See</i> "Appeal."	
Munitions Tribunal Rules—England, &c., -	109-118
Munitions Tribunal Rules—Scotland, -	126-136
Appeal Tribunal Rules—England, &c., -	118-126
Appeal Tribunal Rules—Scotland, - - -	136-144
Procedure as to offences, - - - - -	111, 129
Procedure as to Leaving Certificates, &c., -	113, 131
Costs, - - - - -	116, 134

MUNITIONS VOLUNTEER:

Meaning of, - - - - -	9-10, 218
Penalty for discharging without reasonable cause,	43
Penalty for failing to comply with undertaking,	43

MUNITIONS VOLUNTEER—*continued.*

	PAGE
Penalty for dissuading workman from entering into undertaking, - - - - -	45
Penalty for retaining workman after being notified of his transfer, - - - - -	45

MUNITIONS WORK :

Definition of, - - - - -	5-8, 82
Orders extending definition, - - - - -	181-182
Appeal decisions relative to, - - - - -	219-221

NATIONAL INTEREST :

Main consideration in Leaving Certificate applications, - - - - -	71
---	----

NET PROFITS OF CONTROLLED ESTABLISHMENT :

Definition of, - - - - -	90
Rules for ascertaining excess profits, - - - - -	89-98

NON-UNION LABOUR :

Rule in works that workman not to join union is a suspended "trade custom or practice," - 5,	224
If introduced into Controlled Establishment where union labour previously—only for period of war, - - - - -	64
Penalty for breach of that undertaking, - - - - -	47

<i>Norris v. Lancashire Dynamo Company</i> (Leaving Certificate—To join Army), - - - - -	211
--	-----

INDEX.

257

NOTICES :

	PAGE
To be served by registered post, - - - - -	117, 135

OBSTRUCTING INSPECTOR OF MINISTER OF MUNITIONS :

Penalty for, - - - - -	47
------------------------	----

OFFENCES :

Employers', - - - - -	43-48
Workmen's, - - - - -	48-49
<i>See "Penalty."</i>	

ORDER, 14TH JULY, 1915 :

Text of, - - - - -	177
Meaning of "engineering," - - - - -	222

ORDERING OF WORK REGULATIONS :

Abstract of, - - - - -	147-148
To be posted in Controlled Establishments, -	147
Penalty for contravention of, - - - - -	147, 228

ORDERS MADE UNDER S. 7 (1) OF 1915 ACT :

Text of, - - - - -	177-178
--------------------	---------

ORDERS MADE UNDER S. 9 OF 1916 ACT :

Text of, - - - - -	181-182
--------------------	---------

ORDERS RELATING TO DILUTION OF LABOUR :

Female labour, - - - - -	151-165
Semi-skilled and unskilled labour, - - - - -	166

OVERTIME :

	PAGE
Reasonable amount of to be worked in Controlled Establishments, - - - -	148
<i>Padgett v. Hornsby & Sons</i> (apprenticeship), -	13, 201
<i>Payne v. Brazil, Straker & Co.</i> (dismissal for misconduct), - - - - -	28, 205

PENALTY ON EMPLOYER :

Award—Failing to comply with, - - -	43
Badge Rules—Failing to comply with, - -	47
Breaking or attempting to break Schedule II., -	44
Controlled Establishment owner failing to comply with Minister's orders, - - - -	46
Company—Directors, &co., liable for company offence, - - - - -	48
Dismissing workman and unreasonably refusing Leaving Certificate, - - - - -	46
Disclosing information obtained for use of Minister, - - - - -	48
False Leaving Certificate—Granting, - -	46
False representation to Minister or his officer, -	46
False representation in Tribunal proceedings, -	46
Female labour—Failure to comply with directions, - - - - -	46
Inspector appointed by Minister—Obstructing, -	47
Leaving Certificate—Employing workman without, - - - - -	45
Leaving Certificate—Discharging workman—Unreasonably refusing, - - - - -	46

PENALTY ON EMPLOYER—*continued.*

	PAGE
Leaving Certificate—Granting false, - - -	46
Leaving Certificate—Tampering with, - - -	49, 76
Leaving Certificate—Breach of Rules relating to,	46
Lock-out—Taking part in, - - - -	43
Munitions Volunteer—Dismissing without reasonable cause, - - - - -	43
Munitions Volunteer—Dissuading from undertaking, - - - - -	45
Munitions Volunteer — Retaining against Minister's order, - - - - -	45
Minister's requirements—Failing to comply with,	47
Non-union labour—Breaking undertaking that for war period, - - - - -	47
Obstructing Inspector of Minister, - - -	47
Ordering of work regulations—Breach of, - 4, 51,	147
Rate of wages—Changing without Minister's consent, - - - - -	43
Schedule II. of 1915 Act—Breaking or attempting to break, - - - - -	44
Semi-skilled or unskilled labour—Failing to comply with directions, - - - - -	46
Trade practice or custom—Inducing to comply with, - - - - -	47

PENALTY ON WORKMAN :

Award—Failing to comply with, - - -	48
Badge Rules—Failing to comply with, - -	49
Disclosing information obtained for use of Minister, - - - - -	49, 74
False representation to Munitions Tribunal, -	49
Leaving Certificate—Tampering with, - -	49
Leaving Certificate—Personating holder of, -	49
Leaving Certificate—Parting with possession of,	49

PENALTY ON WORKMAN—*continued.*

	PAGE
Leaving Certificate—Breach of Rules relating to, - - - - -	48
Ordering of work regulations—Breach of, -	48, 147
Strike—Taking part in, - - - - -	49
Inducing adherence to trade practice or custom restricting production or employment, -	64

PENALTY ON CONTRACTOR OR SUB-CONTRACTOR :

Breaking or attempting to break undertaking in Schedule II. of 1915 Act, - - - -	44
Changing rate of wages without Minister's consent, - - - - -	43

PENALTY ON ANY PERSON :

Disclosing information obtained for use of Minister of Munitions, - - - - -	54, 74
Employing, without seeing Leaving Certificate, a Munitions worker, - - - - -	54, 69
Making false representation to evade Act, or in proceedings under it, - - - - -	54, 75
Obstructing Inspector, - - - - -	54, 75
Personating holder of Leaving Certificate, -	54, 75
Trade practice or custom tending to restrict production or employment—Attempting to enforce, - - - - -	54, 64

Preston v. Knox (strikes), - - - - - 223

PROCLAMATION :

Differences outside Act, may be brought within it by, - - - - -	8, 62
---	-------

PROFITS :

	PAGE
Of Controlled Establishments shared by State,	38, 63

POWER SUPPLY :

“Munitions work,” if certified by Minister,	- 182
Order, 13th May, 1916, - - - - -	182
Establishment supplying is under s. 7, - - - - -	177
Order, 1st May, 1916, - - - - -	177

RAILWAY WAGONS :

Manufacture or repair of “Munitions work,”	220
--	-----

<i>Rawnsley v. Bradford Dyers' Association</i> (compensation for dismissal), - - - - -	207, 208
--	----------

RATES OF WAGES :

Differences as to, to be settled by arbitration,	61
Not to be changed without Minister's consent,	63
Penalty for changing, - - - - -	43, 44

REFEREE OR BOARD OF REFEREES :

May be nominated for adjusting excess profits,	67
Whose decision is final, - - - - -	97

REFUSAL :

Unreasonable, to grant Leaving Certificate,	24, 70, 209-215
In Controlled Establishment, to obey superior's orders, - - - - -	148
To work on Sunday, - - - - -	147, 223

REGISTER :

	PAGE
Of complaints before Tribunals, to be kept,	118, 135

RE-HEARING :

May be ordered by Appeal Judge,	- 125, 142
---------------------------------	------------

RELEASED SOLDIER :

Position of, - - - - -	- 11, 68
Army Reserve Munitions workers, - -	185-195

REST DAYS :

Ordered by Minister to be observed,	- - 148
-------------------------------------	---------

<i>Ritchie, Graham & Milne v. Dougan</i> (appearance by letter), - - - - -	52, 217
--	---------

ROAD BOARD :

Order by, applying s. 7 (1), - - - -	178
--------------------------------------	-----

<i>Ryberg v. Lanston Monotype Corporation</i> (Leaving Certificate—Dane), - - - - -	212
<i>Sandberg v. Dawnay & Sons</i> (Munitions work), - 7,	221

RULES PUBLICATION ACT, 1893 :

Munitions Acts Rules and Regulations not within s. 1 of, - - - - -	81
--	----

	PAGE
<i>Scottish Tube Company v. M'Gillivray</i> (Leaving Certificate—Evidence), - - -	19, 20, 210, 218
<i>Scottish Iron and Steel Company v. Hands</i> (transfer to skilled work), - - -	20, 52, 211, 218

SCHEDULE II. OF 1915 ACT:

Owner of Controlled Establishments to carry out,	64
Attempt to break it, offence, - - - -	64
Penalty for breaking, or attempting to break, -	44

SECTION 5 (2) 1916 ACT:

Meaning of "days," - - - - -	225
Meaning of "wages," - - - - -	225
Grounds for claim under, - - - - -	226

SEMI-SKILLED LABOUR:

Order relating to, - - - - -	166
Special Arbitration Tribunal relating to, - -	60
Minister's powers relating to, - - - - -	65
Penalty for failing to comply with directions, -	46

SETTLEMENT OF DISPUTES:

Provisions for, - - - - -	59-62
---------------------------	-------

<i>Shaw v. Lincoln Wagon Company</i> (Munitions work), 6,	219
<i>Shelton Iron and Steel Company v. Hassall</i> (breach of work Rules), - - - - -	228

SHIP REPAIRING WORK :

	PAGE
Excluded from dismissal without week's notice provisions, - - - - -	70

SHOP RULES :

In Controlled Establishment saved in Ordering of Work Regulations, - - - - -	148
--	-----

SILICA BRICK :

Manufacture of, is "Munitions work," - - -	181
Order, 14th February, 1916, - - - - -	181
Establishment manufacturing is under s. 7, - - -	178
Order, 23rd November, 1916, - - - - -	178

<i>Smith v. Dennystown Forge Company</i> (Leaving Certificate), - - - - -	19, 210
---	---------

SINGLE ARBITRATOR :

Reference to, - - - - -	84
-------------------------	----

SOLICITOR :

May not represent party before Local Tribunal,	116, 134
--	----------

STANDARD AMOUNT OF PROFITS :

Definition of, in Controlled Establishment, - - -	38, 90
Ascertainment of, - - - - -	91

INDEX.

265

STANDARD RATE OF WAGES :

	PAGE
Meaning of, in s. 5 (5), - - - -	- 13-201

<i>Stierlin, &c. v. General Stores Company</i> (suspension of workmen), - - - - -	213
--	-----

STEEL (CONSTRUCTIONAL):

Is "Munitions work," - - - - -	181
Order, 14th February, 1916, - - - - -	181

<i>Stoher & Co. v. Hooper</i> (absence from work), -	204
--	-----

STRIKE :

Definition of, - - - - -	81
Penalty for taking part in, - - - - -	- 49, 77
Instigator of strike, - - - - -	33
Workmen liable to prosecution if engaged in con- nection with "Munitions work," - - -	223

SUB-CONTRACTOR :

Liability of, - - - - -	52
-------------------------	----

SUMMARY JURISDICTION ACTS :

How far applicable to Munitions Acts, -	112, 129
---	----------

SUNDAY :

Refusal to work on, - - - - -	148, 224
-------------------------------	----------

T

SUSPENSION OF WORKMAN :

	PAGE
May be "dismissal," - - - - -	27
<i>Swales v. Great Eastern Railway</i> (Leaving Certificate —second application), - - - - -	215

SWORN TESTIMONY :

Not always necessary, - - - - -	217
<i>Taylor v. Osborne & Co.</i> (s. 5 (2), meaning of wages), 26, 225	

TABLE OF SECTIONS OF ACTS :

1915 Act, - - - - -	58
1916 Act, - - - - -	58
<i>Thornycroft & Co. v. Stenhouse</i> (Sunday work), -	224

TIMBER :

Worked timber is "Munitions work," - -	181
Order, 14th February, 1916, - - - -	181

TRADE UNION :

Representative of, may be complainer, - -	69
May represent workman at Tribunal, -	116, 134
Protection of unions after war, - - -	4, 84

INDEX.

267

TRADE RULE PRACTICE OR CUSTOMS :

	PAGE
Suspension of, - - - - - 4, 64,	224
Penalty for inducing any person to adhere to, -	47

TRAMWAY UNDERTAKINGS :

“ Munitions work ” if certified, - - -	182
Order, 13th May, 1916, - - - - -	182

TRANSFER OF COMPLAINT :

From one Tribunal to another, - - -	111, 129
-------------------------------------	----------

TRANSFER OF WORK :

From unskilled, to skilled, - - -	19, 210
-----------------------------------	---------

TRIBUNAL :

See “ Munitions Tribunals.”

UNSKILLED LABOUR :

Order relating to, - - - - -	166
------------------------------	-----

VEXATIOUS OR FRIVOLOUS COMPLAINTS :

Costs in, - - - - -	117, 134
---------------------	----------

VOLUNTEER :

PAGE

See "Munitions Volunteer."

WAGES :

No opportunity of earning for more than two days, - - - - -	70
Meaning of, in s. 5 (2), - - - - -	225
When bonus reckoned as, - - - - -	219

<i>Waugh v. Duncansons, Limited</i> (s. 5 (2), compensation, - - - - -	226, 227
--	----------

WATER SUPPLY :

"Munitions work" if certified by Minister, -	182
Order, 13th May, 1916, - - - - -	182
Establishment supplying is under s. 7, - - -	178
Order, 7th November, 1916, - - - - -	178

WEEK'S NOTICE, OR WEEK'S WAGES :

Condition of dismissal, - - - - -	70
Compensation for not receiving, - - - - -	70

WITNESSES :

Not paid unless certified, - - - - -	115, 132
--------------------------------------	----------

INDEX.

269

WOMEN :

	PAGE
Female labour orders, - - - -	151-165
Female assessor, - - - -	110-127

WOOL :

Material manufactured from, is "Munitions work," - - - -	181
Order, 27th July, 1916, - - - -	181

WORKED TIMBER :

"Munitions work," - - - -	181
Order, 14th February, 1916, - - - -	181

WORKING CONDITIONS :

Differences as to, settled by arbitration, - -	61
Changes in, to be notified to workman, - -	85
Form of notification, - - - -	228

WORKMAN :

Definition of, - - - -	83
Dismissal of, from Controlled Establishment, -	69-70
Offences by. <i>See</i> "Penalty," - - - -	48-49

WRITTEN STATEMENT :

When Munitions Tribunal may consider, -	114, 131
When Appeal Tribunal may consider, -	123, 141

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