

New Zealand

ANALYSIS

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1943, No. 25

Title. AN ACT to amend the Industrial Conciliation and Arbitration Act, 1925. [26th August, 1943]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title. 1. This Act may be cited as the Industrial Conciliation and Arbitration Amendment Act, 1943, and shall be read together with and deemed part of the Industrial Conciliation and Arbitration Act, 1925 (hereinafter referred to as the principal Act).

See Reprint of Statutes, Vol. III, p. 939

When dismissal of employee breach of principal Act.

2. (1) Where any employer dismisses any worker or alters any worker's position in the employment to his prejudice, and at any time within twelve months before his dismissal or alteration of position the worker—

(a) Was an officer of any industrial union or branch of a union, or was a member of the committee of management of any union or branch, or was otherwise an official or a representative of any union or branch; or

- (b) Had acted as an assessor on a Council of Conciliation; or
- (c) Had represented a union or branch of a union in any negotiations or conferences between employers and workers; or
- (d) Was entitled to some benefit of an award, order, or agreement, or had made or caused to be made a claim for any such benefit for himself or any other worker, or had supported any such claim, whether by giving evidence or otherwise; or
- (e) Had given evidence in any proceedings under the principal Act,—

the employer shall be liable to a penalty not exceeding twenty-five pounds to be recovered at the suit of an Inspector of Awards in the same manner as a penalty for a breach of an award:

Provided that it shall be a defence to the employer if he proves that the worker was dismissed or that his position was altered for a reason other than that the worker had acted in any of the said capacities or was or had been entitled to or had claimed any such benefit as aforesaid.

(2) A worker shall be deemed to be dismissed within the meaning of this section if he is suspended for a longer period than ten days.

(3) This section is in substitution for section one hundred and ten of the principal Act, and that section is hereby accordingly repealed.

Repeal.

3. Section eighteen of the Industrial Conciliation and Arbitration Amendment Act, 1936, is hereby amended by inserting, after subsection four, the following subsection:—

Penalty for worker failing to become a member of a union.
1936, No. 6

“(4A) Every person who, being obliged to become a member of any union by the operation of the foregoing provisions of this section, fails to become a member of that union when requested so to do by his employer or by any officer or representative of the union shall be deemed to have committed a breach of the award or industrial agreement to which his position or employment is subject, and shall be liable accordingly to a penalty not exceeding five pounds in respect of every such breach.”

Recovery of
moneys due to
workers under
awards and
industrial
agreements

4. (1) Without affecting any other remedies for the recovery of moneys payable by an employer to any worker whose position or employment is subject to an award or industrial agreement, it is hereby declared that where any payment of any such moneys has (whether before or after the passing of this Act) been made at a rate lower than that fixed by the award or agreement or otherwise legally payable to the worker, the balance of the moneys may be recovered to the use of the worker in the same manner as a penalty for a breach of the award or agreement, by action commenced in a Magistrate's Court under section one hundred and thirty of the principal Act or in the Court of Arbitration under section one hundred and thirty-six of the principal Act within twelve months after the day on which the moneys became due and payable, notwithstanding the acceptance by the worker of the payment at the lower rate or any express or implied agreement to the contrary.

(2) A claim under this section against any employer may be joined in the same action with a claim against the same employer for a penalty for a breach of the award or agreement.
