

New Zealand.

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1898, No. 40.

Title. AN ACT to amend "The Industrial Conciliation and Arbitration Act, 1894." [5th November, 1898.]

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. The Short Title of this Act is "The Industrial Conciliation and Arbitration Act Amendment Act, 1898," and it shall form part of and be read together with "The Industrial Conciliation and Arbitration Act, 1894" (hereinafter called "the principal Act").

Title of principal Act amended. 2. The title of the principal Act is hereby amended by striking out the words "to encourage the formation of industrial unions and associations and."

Powers of the Court of Arbitration.

Court to fix what will constitute breach of award and penalty therefor.

3. The Court in its award, or by order made on the application of any of the parties at any time during the currency of the award, may fix and determine what shall constitute a breach of the award, and what sum, not exceeding five hundred pounds, shall be the maximum penalty payable by any party or person in respect of any breach: Provided, however, that the aggregate amount of penalties payable under or in respect of any award shall not exceed five hundred pounds.

Court may not fix age for apprentice

4. It shall not be lawful for the Court by any award to fix any age for the commencement or termination of apprenticeship.

5. No industrial dispute shall be referred for settlement to a Board by an industrial association, industrial union, or trade-union, and no application shall be made to the Court for the enforcement of any award, except in pursuance of a resolution passed by a majority of the members present at a meeting specially summoned by notice being posted to each member, stating the nature of the proposal to be submitted to the meeting.

Certain matters to be decided by majority of union.

6. The Court in its award, or by order made on the application of any of the parties at any time during the currency of the award, may prescribe a minimum rate of wages or other remuneration, with special provision for a lower rate being fixed in the case of any worker who is unable to earn the prescribed minimum :

Matters that Court may provide for in award or by separate order.

Provided that such lower rate shall in every case be fixed by such tribunal, in such manner, and subject to such provisions as are specified in that behalf in the award or order.

7. (1.) In every case where the Court in its award or other order directs the payment of costs or expenses it shall fix the amount thereof, and specify the same in the award or order.

Amount of costs or expenses to be fixed.

(2.) Section sixty-nine of the principal Act is hereby modified in so far as it is in conflict with this section, but not further or otherwise.

8. For the purpose of enforcing any award or order of the Court, whether made before or after the coming into operation of this Act, the following provisions shall apply, anything in the principal Act to the contrary notwithstanding:—

Provisions for enforcing awards.

(1.) In so far as the award itself directs the payment of money, it shall be deemed to be an order of the Court, and payment shall be enforceable accordingly under the subsequent provisions of this section relating to orders of the Court.

(2.) If any party or person on whom the award is binding commits any breach thereof by act or default, then, subject to the provisions of the last-preceding subsection hereof, any party to the award may by application in the prescribed form apply to the Court for the enforcement of the award.

(3.) On the hearing of such application the Court may by order either dismiss the application or impose such penalty for the breach of the award as it deems just, and in either case with or without costs.

(4.) If the order imposes a penalty or costs it shall specify the parties or persons liable to pay the same, and the parties or persons to whom the same are payable :

Provided that the amount payable by any party or person shall not exceed five hundred pounds :

Provided also that the aggregate amount of penalties and costs payable under any award shall not exceed five hundred pounds.

(5.) For the purpose of enforcing payment of the amount payable under any order of the Court (not being an order under section ten hereof), a certificate in the prescribed form, under the hand of the Clerk and the seal of the

Court, specifying the amount payable and the respective persons by and to whom the same is payable, may be filed in any Court having jurisdiction to the extent of such amount, and shall thereupon, according to its tenor, operate and be enforceable in all respects as a final judgment of such Court in its civil jurisdiction :

Provided that, for the purpose of enforcing satisfaction of such judgment where there are two or more judgment creditors thereunder, process may be issued separately by each judgment creditor against the property of his judgment debtor in like manner as in the case of a separate and distinct judgment.

- (6.) All property belonging to the judgment debtor (including therein, in the case of an industrial union or trade-union, all property held by trustees for the judgment debtor) shall be available in or towards satisfaction of the judgment debt, and if the judgment debtor is an industrial union, an industrial association, or a trade-union, and its property is insufficient to fully satisfy the judgment debt, its members shall be liable for the deficiency :

Provided that no member shall be liable for more than ten pounds under this subsection.

- (7.) For the purpose of giving full effect to the last-preceding subsection hereof the Court or the President thereof may, on the application of the judgment creditor, make such order or give such directions as are deemed necessary, and the trustees, the judgment debtor, and all other persons concerned shall obey the same.

Repeal.

- (8.) The foregoing provisions of this section are in substitution of those contained in sections seventy-five to eighty-one of the principal Act, and those sections are hereby accordingly repealed.

- (9.) Nothing in this section contained shall affect the validity of any proceedings which at the coming into operation of this Act are pending for the enforcement of any award or order of the Court in so far as the same relates to the payment of money, and all such proceedings may either be continued under the principal Act, or be abandoned and be instituted afresh under this Act ; but all proceedings pending for enforcement of any award by attachment are hereby stayed, and in lieu thereof proceedings may be instituted afresh for enforcement by penalty under this section :

Provided that the Court when disposing of such fresh proceedings shall make such order as to costs as it deems just, having regard to the costs of the proceedings abandoned or stayed as aforesaid.

Provisions for enforcing industrial agreements.

9. (1.) For the purpose of enforcing industrial agreements, whether made before or after the coming into operation of this Act, the provisions of the last-preceding section hereof shall, *mutatis mutandis*, apply in like manner in all respects as if an industrial

agreement were an award of the Court, and the Court shall accordingly have full and exclusive jurisdiction to deal therewith.

(2.) The foregoing provisions of this section are in substitution of those contained in subsection one of section twenty-two, and in section twenty-three, of the principal Act, and the said subsection one and section twenty-three are hereby accordingly repealed.

Repeal.

10. The Court shall have full and exclusive jurisdiction to deal with all offences against the principal Act, and for the purpose of this section the following provisions shall apply:—

Jurisdiction of Court to deal with offences.

(1.) Proceedings to recover the penalty by the principal Act imposed in respect of any such offence shall be taken in the Court in a summary way under the summary provisions of "The Justices of the Peace Act, 1882," and those provisions shall, *mutatis mutandis*, apply in like manner as if the Court were a Court of Justices exercising summary jurisdiction under that Act:

Provided that in the case of an offence under section sixty-four of the principal Act (relating to contempt of Court) the Court, if it thinks fit so to do, may deal with it forthwith without the necessity of an information being taken or a summons being issued.

(2.) For the purpose of enforcing any order of the Court made under this section a duplicate thereof shall, by the Clerk of Awards, be filed in the nearest office of the Magistrate's Court, and shall thereupon, according to its tenor, operate and be enforced in all respects as a final judgment, conviction, or order duly made by a Stipendiary Magistrate under the summary provisions of "The Justices of the Peace Act, 1882."

(3.) The provisions of section seventy-three of the principal Act shall apply to all proceedings under this section.

(4.) All penalties recovered under this section shall be paid into the Public Account and form part of the Consolidated Fund.

(5.) The foregoing provisions of this section are in substitution of those contained in section eighty-nine of the principal Act, and that section is hereby accordingly repealed.

(6.) Nothing in this section contained shall apply to the breach of any award or order of the Court, or to the penalty in respect of such breach.

11. In order to enable the Court the more effectually to dispose of any matter before it according to the substantial merits and equities of the case, it may, at any stage of the proceedings, of its own motion or on the application of any of the parties, and upon such terms as it thinks fit, by order,—

Further powers of Court as to matters before it.

(1.) Direct parties to be joined or struck out;

(2.) Amend or waive any error or defect in the proceedings;

(3.) Extend the time within which anything is to be done by any party; and

(4.) Generally give such directions as are deemed necessary or expedient in the premises.

Exercise thereof when Court not sitting.

12. The powers by the last-preceding section hereof conferred upon the Court may, when the Court is not sitting, be exercised by the President.

General.

When declaration to be taken.

13. The statutory declaration prescribed by section fifty of the principal Act need be taken only once, and, in the case of each member by whom it is or has been taken, it shall be deemed to apply to all evidence produced before him during his term of office.

Repeal.

14. Sections fifty-four and sixty-three of the principal Act are hereby repealed, and in lieu thereof the following provisions shall apply:—

Sittings of Court.

(1.) The sittings of the Court shall be held at such time and place as are from time to time fixed by the President.

(2.) The sittings may be fixed either for a particular case or generally for all cases then before the Court and ripe for hearing, and it shall be the duty of the Clerk to give to each member of the Court at least forty-eight hours' previous notice of the time and place of each sitting.

Adjournment of Court.

(3.) The Court may be adjourned from time to time and from place to place in manner following, that is to say:—

(a.) By the Court or the President at any sitting thereof, or, if the President is absent from such sitting, then by any other member present, or, if no member is present, then by the Clerk; and

(b.) By the President at any time before the time fixed for the sitting, and in such case the Clerk shall notify the members of the Court and all parties concerned.

Adjournment of Boards.

15. The powers by the last-preceding section hereof conferred upon the President in the case of the Court shall, in the case of the Board, be exercisable by the Chairman thereof.

Proceedings may be conducted in private.

16. The Board or the Court, at any stage of the proceedings before it, and either of its own motion or at the request of any of the parties, may direct that the proceedings be conducted in private, and in such case all persons other than the parties, their representatives, and any witness under examination shall withdraw.