

Hon. Mr. Anderson.

INDUSTRIAL CONCILIATION AND ARBITRATION  
AMENDMENT.

Title.	ANALYSIS.
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4. Court for settlement of an industrial dispute to consist of the Judge and two arbitrators. Consequential repeals.	14. Individual employers may agree with workers for payment by results.
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8. Appointment of arbitrators in cases where application for Council of Conciliation made before passing of this Act.	16. Dismissal of worker within six months after acting as assessor on Council of Conciliation or as an arbitrator to be <i>prima facie</i> evidence of his having been dismissed because of his so acting.
9. On unanimous recommendation of assessors dispute may be settled and determined by Judge alone.	17. Section 83 of principal Act amended.
<i>Special Provisions as to Disputes before Court on passing of this Act.</i>	18. Repeal.
10. Special provisions as to disputes before Court on passing of this Act.	19. Matters to be taken into account by Court in fixing wages or other remuneration in awards.
<i>Excepted Industries.</i>	20. Power of Court to amend awards extended.
11. Principal Act not to apply to farming industry and industries associated therewith.	21. Compulsory conference to avoid strike or lock-out. Section to apply to all industries, whether subject to principal Act or not.

A BILL INTITULED

AN ACT to amend the Industrial Conciliation and Arbitration Act, 1925. Title.

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

1. This Act may be cited as the Industrial Conciliation and Arbitration Amendment Act, 1927, and shall be read together with and deemed part of the Industrial Conciliation and Arbitration Act, 1925 (hereinafter referred to as the principal Act). Short Title.

10 *Constitution of Court.*

2. (1) There shall be a Judge of the Court, who shall be appointed by the Governor-General. Judge of Court.

(2) The Judge of the Court in office on the passing of this Act shall continue in office as if he had been appointed under this Act.

Repeal.

Judge alone to exercise certain jurisdiction of Court.

Court for settlement of an industrial dispute to consist of the Judge and two arbitrators.

(3) Section sixty-three of the principal Act is hereby repealed.

3. Except for the settlement and determination of industrial disputes the whole jurisdiction of the Court under the principal Act or any other Act shall be exercised by the Judge alone.

4. (1) For the settlement and determination of an industrial dispute, the Court shall, except as provided in section *nine* hereof, consist of three members, of whom one shall be the Judge and two shall be the arbitrators appointed in accordance with the *next succeeding* section. 5

(2) The arbitrators shall be members of the Court only for the settlement and determination of the particular dispute in respect of which they are appointed. 10

(3) Every arbitrator before exercising any of the functions of his office shall make oath or affirmation before the Judge that he will faithfully and impartially perform the duties of his office, and also that, except in the discharge of his duties, he will not disclose to any person any evidence or other matter brought before the Court. 15

(4) Every arbitrator shall be paid such fees and travelling-expenses as are prescribed by regulations in that behalf.

(5) For the purposes of this and the *last preceding* section the settlement and determination of any industrial dispute does not include the amendment or extension of or the joining of parties to an award of the Court. 20

(6) Where, for the purposes of an award or for any other purpose, the Court deems it necessary or expedient that evidence should be taken in more places than one the Court shall determine a place where evidence shall be taken before the full Court, and in all other places evidence shall be heard by the Judge sitting alone, and shall be taken down and a copy of the transcript of such evidence shall be supplied to each arbitrator within a reasonable time before the settlement or determination of the industrial dispute by the Court. 25 30

(7) Sections sixty-five to seventy-three, and section one hundred and four, of the principal Act are hereby consequentially repealed.

Consequential repeals.

Qualification and appointment of arbitrators.

5. (1) Every person recommended for appointment as an arbitrator under this section must be, or within the *twelve* months immediately preceding the date of such recommendation have been, actually and *bona fide* engaged or employed either as an employer or as a worker in the industries, or in any one of the industries, in respect of which the industrial dispute has arisen, and no person shall be recommended or appointed in respect of any particular dispute both as an assessor on a Council of Conciliation and as an arbitrator. 35 40

(2) Every application to a Commissioner under section forty-one of the principal Act, or filed with a Clerk of Awards under section fifty-eight of that Act, shall state separately, and in addition to the matters prescribed by subsection five of the said section forty-one, the name of a qualified person who is recommended for appointment as arbitrator in the event of the dispute being referred to the Court for settlement and determination. 45

(3) If the Commissioner is of opinion that the person so recommended is not qualified for appointment he shall reject the recommendation, and the applicants shall then recommend some other qualified person in his place. The decision of the Commissioner as to the qualification of any person recommended as an arbitrator for the applicants shall be final. 50

(4) If and as soon as the Commissioner is satisfied that a duly qualified person has been recommended, he shall by writing under his hand appoint that person to be arbitrator for the applicants; and he shall not proceed, pursuant to section forty-two of the principal Act, to

5 appoint a date for the hearing of the dispute by the Council of Conciliation, or to cite the respondents, until such appointment of an arbitrator has been made.

(5) In citing the respondents the Commissioner shall require them, when recommending qualified persons for appointment as assessors also

10 to recommend a person for appointment as arbitrator on their behalf in the event of the dispute being referred to the Court for settlement and determination.

(6) If the Commissioner is of opinion that any person so recommended is not qualified for appointment he shall reject the recommendation, and shall require the respondents to recommend some other

15 qualified person in his place. The decision of the Commissioner as to the qualification of any person recommended as an arbitrator for the respondents shall be final.

(7) If and as soon as the Commissioner is satisfied that a qualified

20 person has been so recommended he shall by writing under his hand appoint that person to be arbitrator for the respondents.

(8) Unless the respondents recommend a qualified person as arbitrator at least three clear days before the day appointed for the hearing of the dispute by the Council of Conciliation the Commissioner

25 shall forthwith appoint on behalf of the respondents a qualified person to act as arbitrator for them.

(9) The recommendation of a person as arbitrator by the respondents shall be in writing signed by the respondents. If they cannot agree on the recommendation of any one qualified person, separate recommenda-

30 tions may be made by the several respondents, and in that case the Commissioner may appoint as arbitrator such one of the qualified persons so recommended as he thinks fit.

(10) In the event of the office of arbitrator for the applicants or the respondents becoming vacant at any time from any cause whatever the

35 Commissioner shall appoint a qualified person to fill the vacancy.

(11) Notwithstanding anything in section forty-seven of the principal Act, no person appointed as arbitrator shall be entitled to appear before the Council of Conciliation on behalf of any of the parties to the dispute.

40 6. Notwithstanding anything to the contrary in section fifty-nine of the principal Act, a dispute shall not be deemed to be referred to the Council of Conciliation until the arbitrators have been appointed.

7. In the event of its becoming necessary to refer the dispute to the Court for settlement, the Commissioner shall, in his notification to the

45 Clerk of Awards pursuant to section fifty-three or section fifty-eight of the principal Act, state the names of the arbitrators.

8. Where, by reason of application having been made before the passing of this Act to have an industrial dispute referred to a Council of Conciliation, strict compliance with the requirements of section five

50 hereof is not possible, the following provisions shall apply with respect to the appointment of arbitrators:—

(a) If the respondents have not been cited, they shall not be so cited until the applicants have, at the request of the Com-

Dispute not to be referred to Council of Conciliation until arbitrators appointed.

Names of arbitrators to be notified to Clerk of Awards when dispute referred to Court.

Appointment of arbitrators in cases where application for Council of Conciliation made before passing of this Act.

missioner, recommended a qualified person for appointment as arbitrator and the Commissioner has appointed an arbitrator for the applicants :

- (b) If the respondents have been cited, the Commissioner shall request the applicants and the respondents respectively to recommend a suitable person for appointment as arbitrator, and no further proceedings relative to the dispute shall be taken until an arbitrator for the applicants and an arbitrator for the respondents have been appointed : 5
- (c) Subject to the *two last preceding* paragraphs, the provisions of section *five* hereof shall, with the necessary modifications, apply to the appointment of arbitrators in accordance with this section. 10

On unanimous recommendation of assessors dispute may be settled and determined by Judge alone.

9. Notwithstanding anything to the contrary in the foregoing provisions of this Act, an industrial dispute on being referred to the Court for settlement and determination shall be so settled and determined by the Judge alone if a recommendation to that effect unanimously agreed to by all the assessors on the Council of Conciliation is made to the Court. 15

*Special Provisions as to Disputes before Court on passing of this Act.* 20

Special provisions as to disputes before Court on passing of this Act.

10. (1) Notwithstanding anything to the contrary in the foregoing provisions of this Act, the nominated members of the Court in office immediately before the passing of this Act shall remain in office for the purpose of disposing of disputes then before the Court.

(2) When the decision of the Court has been given in respect of all such disputes, the said nominated members shall cease to be members of the Court. 25

(3) There shall, without further appropriation than this Act, be paid to each of the persons so ceasing to be a member of the Court, as compensation for loss of office, a sum calculated at the rate of *seven hundred and fifty* pounds per annum for the period between the date of his so ceasing to be a member of the Court and the expiration of the period of three years from the date of the gazetting of his appointment as a member, together with such travelling-expenses as the Judge certifies to be reasonably incurred by such person in returning to his home from any other place where the Court may be sitting at the date of his ceasing to be a member thereof. 30 35

*Excepted Industries.*

Principal Act not to apply to farming industry and industries associated therewith.

11. (1) Except as specifically provided in section *twenty-one* hereof, nothing in the principal Act or this Act shall apply to the farming industry, or to industries carried on in dairy factories, or to employers or workers engaged in such industries. 40

(2) For the purposes of this section—

“Farming industry” means and includes all agricultural and pastoral and dairying operations and all work of every description incidental to such operations when effected on a farm, but does not include market-gardening, or orcharding, or cultivation of or operations concerning flax or timber : 45

“Dairy factories” means and includes the buildings wherein are carried on the manufacture and production of butter, cheese, and other products of milk, and all operations for and incident to such manufacture and production, together with lands adjacent to such buildings and used in connection therewith for all such purposes as aforesaid, and also includes buildings annexed or adjacent to dairy factories and exclusively used as cold storage for the manufactures or products of dairy factories.

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(3) Every award or industrial agreement in force on the passing of this Act shall, to the extent to which it applies to the farming industry or to dairy factories, cease to operate immediately on the expiration of the term for which it was made, save that it may thereafter be enforced in respect of any breach or other matter arising during such term.

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*Payment of Employees by Results.*

12. No provision purporting to restrict or prohibit any person from being employed at piece-rates or in any other manner calculated to secure payment to such person in accordance with the volume of his work shall be inserted in any award or industrial agreement made after the passing of this Act, and any provision inserted in breach of this section shall be null and void.

Provisions prohibiting payment by results not to be inserted in awards or industrial agreements.

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13. The Court, in making any award, may embody therein such provision as it thinks fit for payment by piecework or otherwise according to the volume of work done.

Court may provide in awards for payment by results.

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14. Notwithstanding the absence from any award or industrial agreement of any provision for payment by piecework or otherwise as aforesaid, any employer may agree with his employees or any of them for payment by piecework or otherwise according to the volume of work done :

Individual employers may agree with workers for payment by results.

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Provided that in no case shall less be paid to any worker than the equivalent of the time rate fixed by the award or industrial agreement by which the parties thereto are for the time being bound.

*Miscellaneous.*

15. Subsection six of section forty-one of the principal Act is hereby amended by omitting therefrom all words before the proviso thereto, and substituting the words “Every person so recommended as an assessor must be, or within the *twelve* months immediately preceding the date of such recommendation have been, actually and *bona fide* engaged or employed either as an employer or as a worker in the industry, or in any one of the industries, and in the area in respect of which the dispute has arisen.”

Section 41 of principal Act amended.

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16. (1) If any employer dismisses from his employment any worker who within the *six* months immediately preceding his dismissal had acted as an assessor on a Council of Conciliation, or as a member of the Court, such dismissal shall, for the purpose of proceedings under section one hundred and ten of the principal Act, be *prima facie* evidence that such worker was so dismissed because he had so acted.

Dismissal of worker within six months after acting as assessor on Council of Conciliation or as an arbitrator to be *prima facie* evidence of his having been dismissed because of his so acting.

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(2) Section one hundred and ten of the principal Act is hereby amended by inserting after the words “Council of Conciliation,” in subsection one and also in subsection three, the words “or as a member of the Court.”

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Section 83 of  
principal Act  
amended.

17. Subsection two of section eighty-three of the principal Act is hereby amended by omitting the words "the members present are equally divided in opinion," and substituting the words "no two members of the Court are able to agree upon a decision."

Repeal.

18. Section ninety of the principal Act is hereby repealed. 5

Matters to be taken  
into account by  
Court in fixing  
wages or other  
remuneration in  
awards.

19. In fixing in any award the wages, allowances, or remuneration of workers employed in any industry, or the prices to be paid therein in respect of such employment, the Court shall have regard to a fair standard of living, but shall take into account the economic and financial conditions affecting the industry to which the award relates, and trade and industry generally in New Zealand, and all other relevant considerations. 10

Power of Court to  
amend awards  
extended.

20. (1) Where in any industry to which an award applies it is proposed to institute new methods of work, any party to the award may make application to the Court to amend such award in such manner as to facilitate the adoption of such new methods, and the Court may thereupon, in its discretion, amend the award in such manner as it thinks fit to facilitate the adoption of such new methods and to meet such new and changed conditions as may arise thereout. 15

(2) The power conferred by this section is in addition to and not in substitution for the powers to amend awards conferred on the Court by section ninety-two of the principal Act. 20

Compulsory  
conference to  
avoid strike or  
lockout.

21. (1) The Minister may at any time, if satisfied that a strike or lockout in any industry is likely to take place, or at any time during the continuance of a strike or lockout, require any persons engaged in connection with such industry, whether as employers or workers, and representatives of industrial unions or associations or other bodies of employers or workers, to meet in conference. 25

(2) At every such conference a person appointed by the Minister shall preside, and shall endeavour to induce the parties to come to an agreement to avoid a strike or lockout, or to end the same, as the case may be. 30

(3) If any person so required by the Minister does not attend in conference as aforesaid he commits an offence and is liable on summary conviction to a fine of *fifty* pounds. 35

(4) Nothing in this section shall be deemed to make lawful any strike or lockout.

Section to apply to  
all industries,  
whether subject to  
principal Act or not.

(5) This section shall apply to all industries and to the persons engaged therein, whether or not they are industries or persons to which or to whom the principal Act applies. 40