

Hon. Mr. Armstrong.

INDUSTRIAL CONCILIATION AND ARBITRATION AMENDMENT.

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none">1. Short Title.2. Extension of definition of term "industrial matters" as set out in section two of principal Act and as judicially construed.3. Court to fix basic rates of wages.4. Further provisions restricting the registration of new unions. Repeal.5. Provision for registration of Dominion unions of employers and workers.6. Registration of Dominion union in relation to industries in respect of which no union is in existence.7. Registration of Dominion union in relation to industry or industries in respect of which one or more unions are in existence.8. Effect of registration of Dominion union.9. Restriction on registration of unions while Dominion union in existence.10. Rate of remuneration of additional Conciliation Commissioners to be fixed by Parliament.11. Where settlement of industrial dispute is effected by Council of Conciliation, terms of settlement to be embodied in industrial agreement. Exemptions.12. Mode of execution of industrial agreements effected by Council of Conciliation.13. Restoring to Court of Arbitration its former jurisdiction in relation to industrial disputes.14. Procedure where settlement not arrived at but Council makes recommendation for settlement.15. Repealing spent and superseded provisions of Act of 1932. | <ol style="list-style-type: none">16. On application of industrial union or industrial association of workers, Court to include in award provision restricting employment to members of union.17. With intent to secure effective operation of award, Court may confer on union officials rights of entry on employers' premises and certain other rights.18. Where deemed practicable new awards to fix working-hours at not more than forty hours a week.19. Court may amend existing awards in respect of working-hours.20. Saturday work to be eliminated where practicable.21. Further extension of powers of Court to amend awards.22. Exemption from general order of Court extending award to unspecified unions or unspecified employers.23. Consequential amendment of section 93 of principal Act.24. Suit instituted by any Inspector of Awards may be continued by any other such Inspector.25. Extension of time for commencing actions under principal Act.26. Section 143 of principal Act (imposing restrictions on amounts chargeable as admission fees or as subscriptions to unions) amended.27. Repeal.28. Application of awards and industrial agreements to relief and certain other workers.29. Inspector of Awards may recover arrears of wages on behalf of worker subject to an award or industrial agreement. |
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2 *Industrial Conciliation and Arbitration Amendment*

A BILL INTITULED

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

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, 1936, 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

Extension of definition of term "industrial matters" as set out in section two of principal Act and as judicially construed.

2. Whereas it has been judicially decided that the definition in general terms of the expression "industrial matters" contained in section two of the principal Act is in some respects restricted by the specification in paragraphs (a) to (f) of the said definition of certain matters as industrial matters: And whereas it is desirable that all such restrictions of the general definition be removed, and that the definition be further extended as hereinafter appearing: Be it therefore enacted as follows:—

(a) The definition of the expression "industrial matters" in section two of the principal Act is hereby amended by repealing paragraphs (a) to (f) thereof, and by omitting in consequence the words "and, without limiting the general nature of the above definition, includes all matters relating to":

(b) The said definition is hereby further amended by adding, after the words "indictable offence", the words "and includes all matters affecting the privileges, rights, and duties of industrial unions or industrial associations or the officers of any such union or association".

Court to fix basic rates of wages.

3. (1) The Court shall of its own motion, within three months after the commencement of this Act, make a general order fixing a basic rate of wages for adult male workers employed in any industry to which any award or industrial agreement relates, and, by the same or a similar order, shall, within the same time, fix a basic rate of wages for adult female workers so employed.

(2) Any general order made under this section may from time to time, at intervals of not less than six months in any case, be amended by a subsequent general order

made by the Court, either of its own motion or on application made to the Court by any industrial union or industrial association.

(3) Every general order made under this section shall
5 come into force on a date to be specified in that behalf in the order.

(4) In fixing a basic rate of wages under this section the Court shall have regard to the general economic and financial conditions then affecting trade and industry in
10 New Zealand, the cost of living, and any fluctuations in the cost of living since the last order, if any, was made under the authority of this section.

(5) The basic rate of wages for adult male workers fixed under the authority of this section shall be such a
15 rate as would, in the opinion of the Court, be sufficient to enable a man in receipt thereof to maintain a wife and two children in a fair and reasonable standard of comfort.

(6) Except as provided in the *next succeeding* subsection, while any general order fixing a basic rate of
20 wages remains in force, no adult male or female worker employed in any industry to which any award or industrial agreement relates shall receive less than the basic rate of wages for male or female workers, as the case may be, anything to the contrary in any such award or industrial
25 agreement notwithstanding.

(7) Any general order made under this section may make provision for the issue to any worker of a permit to accept a wage lower than the basic rate of wages. The provisions of section one hundred and forty-five
30 of the principal Act (providing for the issue of permits to accept a wage below that prescribed in any award for ordinary workers) shall, so far as applicable, apply with respect to the issue and duration of permits under this subsection.

35 4. (1) Where at any time after the passing of this Act application is made for the registration of any society (including a trade-union) as an industrial union of employers or as an industrial union of workers, and there is in the same industrial district an existing union of
40 employers or of workers, as the case may be, registered in respect of the same industry, or there is in the same industrial district an existing trade-union to which the members of the applicant society could properly belong, the Registrar shall refuse to register the applicant society
45 as an industrial union except with the concurrence of such existing industrial union or trade-union.

Further provisions restricting the registration of new unions.

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Repeal.

(2) This section is in substitution for section eleven of the principal Act, and that section is hereby repealed accordingly.

Provision for registration of Dominion unions of employers and workers.

5. (1) Nothing in the principal Act shall hereafter be construed to preclude the registration as an industrial union of employers or as an industrial union of workers of any society lawfully associated for the purpose of protecting or furthering the interests of all the employers or workers, as the case may be, throughout New Zealand engaged in or in connection with any specified industry or related industries. 5 10

(2) Where a union is registered in accordance with this section, the name of the union shall be "The Dominion [*Here insert descriptive reference to the industry or related industries concerned*] Industrial Union of Employers", or "The Dominion [*Here insert descriptive reference to the industry or related industries concerned*] Industrial Union of Workers", as the case may be, and the reference in the registered name to the Dominion shall be deemed to satisfy the requirements of section seven of the principal Act that the name of the union shall specify the locality in which the majority of its members reside or exercise their calling. 15 20

Registration of Dominion union in relation to industries in respect of which no union is in existence.

6. Where application is made for the registration of any society as a Dominion union of employers or as a Dominion union of workers, as the case may be, in connection with any industry or industries in connection with which there is not, at the time of application, any existing registered union of employers or workers, as the case may be, the society shall be registered on compliance with the requirements of section five of the principal Act. 25 30

Registration of Dominion union in relation to industry or industries in respect of which one or more unions are in existence.

7. Where application is made for the registration of any society as a Dominion union of employers or as a Dominion union of workers, as the case may be, in connection with any industry or industries in connection with which one or more unions of employers or workers, as the case may be, are then registered under the principal Act, the Registrar shall refuse to register the society as a Dominion union unless he is satisfied either— 35 40

(a) That the existing union or that all the existing unions of employers or workers, as the case may be, concur in the application for the registration of the society as a Dominion union; or

(b) That a majority of all employers or workers, as the case may be, engaged or employed in New Zealand in the industry or industries concerned are in favour of the registration of a Dominion union.

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8. (1) On the registration of a Dominion union of employers or of workers the registration of all existing unions of employers or workers, as the case may be, connected with the same industry or industries shall
10 be deemed to be cancelled.

(2) The registration of a Dominion union or the cancellation of the registration of any union in accordance with this section shall not affect the operation of any industrial agreement or award in force at the date of
15 registration, but all such agreements and awards shall continue in force until superseded or otherwise terminated in accordance with the provisions of the principal Act, and while so in force shall be binding on all employers
20 and workers who would be bound thereby if the Dominion union had not been registered or the registration of any other union had not been cancelled.

9. While a Dominion union of employers or workers, as the case may be, is in existence, in respect of any industry or related industries, the Registrar shall not
25 register for any industrial district or other locality any society as a union of employers or workers, as the case may be, in respect of the same industry or industries, unless he is satisfied that not less than two-thirds of all employers or workers, as the case may be, who are
30 engaged or employed in the district or other locality to which the application relates are members of the society in respect of which the application for registration is made.

10. Subsection four A of section forty of the principal
35 Act (as set out in section two of the Industrial Conciliation and Arbitration Amendment Act, 1932) is hereby amended by omitting the words "prescribed by regulations under this Act", and substituting the words "appropriated by Parliament for the purpose".

Effect of registration of Dominion union.

Restriction on registration of unions while Dominion union in existence.

Rate of remuneration of additional Conciliation Commissioners to be fixed by Parliament.
1932, No. 4.

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Where settlement of industrial dispute is effected by Council of Conciliation, terms of settlement to be embodied in industrial agreement.

Exemptions.

Mode of execution of industrial agreements effected by Council of Conciliation.

11. (1) If a settlement of an industrial dispute is arrived at by the parties in the course of an inquiry held before a Council of Conciliation in accordance with the provisions of the principal Act, the terms of the settlement shall be set forth as an industrial agreement. Except as provided in the *next succeeding* section (with respect to the mode of execution), all the provisions of the principal Act relating to industrial agreements shall apply with respect to industrial agreements made under this section. 5

(2) At any time within one month after any such agreement has been filed in the office of the Clerk of Awards any employer, trade-union, industrial union, or industrial association bound thereby may apply to the Court for total or partial exemption from such agreement, and the Court may grant such exemption accordingly or may refuse to grant exemption. 10 15

(3) The fact that application for exemption from the terms of any such agreement has been made and has not been disposed of shall not relieve any person or any union or association from his or its obligation to conform to the agreement : 20

Provided that where application for total or partial exemption from the operation of an agreement to which this section refers is made as aforesaid by any employer, trade-union, industrial union, or industrial association that was not bound by, or that was wholly or partially exempted from, the provisions of any former award or industrial agreement for which the first-mentioned agreement has been substantially substituted, such employer, trade-union, industrial union, or industrial association, as the case may be, shall, pending the determination of the Court on the application for exemption, be exempt from the operation of the said agreement to the same extent, as nearly as may be, as he or it was exempt from the operation of the former award or industrial agreement. 25 30 35

12. (1) Every industrial agreement made under the *last preceding* section shall be executed on behalf of the parties by the assessors.

(2) Section fifty-five of the principal Act is hereby amended by omitting from subsection one the words "by all the parties thereto, or their attorneys or representatives", and substituting the words "on behalf of the parties by the assessors". 40

(3) The execution of any industrial agreement by assessors pursuant to this section shall be conclusive proof that a settlement in terms of the instrument of agreement has been arrived at by the parties to the dispute.

- 5 **13.** (1) If a settlement of an industrial dispute is not arrived at in the course of an inquiry held before a Council of Conciliation in accordance with the provisions of the principal Act, and no recommendation for the settlement of the dispute is made by the Council in accordance with
10 the provisions of section fifty-four of that Act, the Clerk shall forthwith refer the dispute to the Court for settlement, and thereupon the dispute shall be before the Court; and in the meantime the Council shall endeavour to induce the parties to agree to some temporary and
15 provisional arrangement to operate until the dispute can be determined by the Court.

Restoring to Court of Arbitration its former jurisdiction in relation to industrial disputes.

(2) The *last preceding* subsection shall apply with respect to disputes existing at the commencement of this Act as well as to disputes that may hereafter arise.

- 20 **14.** (1) When notification is given to the Clerk of Awards, in accordance with section fifty-three of the principal Act, that a settlement of an industrial dispute has not been arrived at, and the Council has made a recommendation for the settlement of the dispute in
25 accordance with the provisions of section fifty-four of that Act, the Clerk of Awards shall, as soon as practicable, give notice in the prescribed form to the parties to the dispute of the filing of the recommendation and of the place where it may be seen, and shall require them, if
30 they disagree with the recommendation, to signify their disagreement within one month, and, if they so desire, to state reasons for their disagreement.

Procedure where settlement not arrived at but Council makes recommendation for settlement.

Cf. 1925, No. 24, s. 57; see Reprint of Statutes, Vol. III, p. 965

- (2) If within the time aforesaid no notice of disagreement has been filed, the Clerk shall as soon as possible
35 thereafter give to the parties notice in the prescribed form of the fact that no notice of disagreement has been filed, and the recommendation shall, as from seven days after the date of that notice, operate and be enforceable in the same manner as if it were an industrial agreement; and the Clerk shall endorse the recommendation
40 accordingly.

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(3) If any party to the dispute duly signifies his disagreement with the recommendation the dispute shall be referred by the Clerk to the Court for settlement, and thereupon the dispute shall be before the Court, and the Court may, after hearing any of the parties that have signified their disagreement, incorporate the terms of the recommendation in an award. 5

(4) If it appears to the Court that any reason given for disagreement with the recommendation is trivial or frivolous it may disregard such disagreement, and the parties so disagreeing shall be deemed to have concurred in the recommendation. 10

Repealing spent and superseded provisions of Act of 1932.

1932, No. 4

1933, No. 41

On application of industrial union or industrial association of workers, Court to include in award provision restricting employment to members of union.

15. (1) Sections *eleven to fourteen* of this Act are generally for the purpose of restoring to the Court the jurisdiction in relation to industrial disputes which it was empowered to exercise prior to the passing of the Industrial Conciliation and Arbitration Amendment Act, 1932, and sections five, six, seven, eight, nine, ten, eleven, and fourteen of that Act and the Schedule thereto are hereby repealed. 15

(2) Section fifty-eight of the Finance Act, 1933 (No. 2), is hereby repealed. 20

16. (1) In any award made after the passing of this Act the Court, on the application of an industrial union of workers or of an industrial association of workers (in either case being a party to the dispute) shall make provision to the effect that, while the award continues in force, it shall not be lawful for any employer bound thereby to employ or to continue to employ in the industry to which the award relates any adult person who is not for the time being a member of an industrial union of workers on which the award is binding. 25 30

(2) On application in that behalf made by an industrial union of workers or by an industrial association of workers bound by any award (whether in force at the commencement of this Act or in force at any time thereafter) the Court shall amend the award by making provision to the effect that, while the award continues in force, it shall not be lawful for any employer bound thereby to employ or to continue to employ in the industry to which the award relates any adult person who is not for the time being a member of an industrial union of workers on which the award is binding. 35 40

(3) Any award in which provision had been made in accordance with the foregoing provisions of this section may, on application by any industrial union of workers or by an industrial association of workers bound by that
5 award, be amended by the Court by the deletion therefrom of the provisions relating to compulsory membership of a union of workers, or by the temporary suspension of any such provisions.

(4) Every person who is obliged to become a member
10 of a union by the operation of the foregoing provisions of this section shall be entitled to become a member of that union on application made in accordance with its rules, and in so far as the rules of any union are inconsistent with the provisions of this subsection they shall be null
15 and void.

(5) For the purposes of this section a person of the age of eighteen years or upwards shall be deemed to be an adult.

17. (1) With intent to secure the effective operation
20 of any award, the Court may include therein all such provisions as it considers reasonably necessary, and in particular may include provisions to confer on the secretary or any other officer or representative of any industrial union of workers power to enter at all reasonable
25 times upon the premises of any employer bound by the award, and there to interview any workers, but not so as to interfere unreasonably with the employer's business.

With intent to secure effective operation of award, Court may confer on union officials rights of entry on employers' premises and certain other rights.

(2) Any provisions that are expressed in the award to be made under the authority of this section shall be
30 deemed to relate to industrial matters within the meaning of the principal Act, and may be at any time revoked or amended by the Court, of its own motion, on such grounds as to the Court seem sufficient.

18. (1) In every award made after the passing of this
35 Act the Court shall fix at not more than forty the maximum number of hours (exclusive of overtime) to be worked in any week by any worker bound by the award unless, in the opinion of the Court, after hearing representatives of employers and of workers, it would be
40 impracticable to carry on efficiently any industry to which the award relates if the working-hours were so limited.

Where deemed practicable new awards to fix working-hours at not more than forty hours a week.

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(2) Where in any award made after the passing of this Act the maximum number of hours (exclusive of overtime) to be worked by any worker in any week is fixed in excess of forty, the Court shall indicate in the award the grounds which, in the opinion of the Court, made impracticable the fixing of forty hours as the maximum number of hours to be worked in any week. 5

Court may amend existing awards in respect of working-hours.

19. (1) On application made by any industrial union, industrial association, or employer bound by an award or industrial agreement in force at the passing of this Act the Court shall, by order made as soon as possible after the filing of the application, amend the award or agreement by fixing at not more than forty the maximum number of hours (exclusive of overtime) to be worked in any week by any worker bound by the award or agreement, unless, in the opinion of the Court, after hearing representatives of the employers and the workers concerned, it would be impracticable to carry on efficiently any industry to which the award or agreement relates if the working-hours were so limited. Where on application made under this subsection the Court declines, on the ground of impracticability, to reduce to forty the maximum weekly working-hours provided for in the award, it may nevertheless amend the award by reducing the maximum weekly working-hours provided for therein so as to provide for a maximum intermediate between forty hours and the maximum provided for in the award. 10 15 20 25

(2) Any order made under this section shall take effect on a day to be fixed therein in that behalf, being not later than one month after the date of the order. 30

(3) Where by an order of the Court made under this section the maximum number of hours to be worked in any week, as fixed by any award or industrial agreement, is reduced, any rates of pay fixed in the award or agreement shall, if necessary, be increased, either directly by the Court or indirectly by the operation of the order, so that the ordinary rate of weekly wages of any worker bound by the award or agreement shall not be reduced by reason of the reduction made in the number of his working-hours. 35 40

20. In any order made by the Court under either of the *last two preceding* sections, fixing at forty the maximum weekly working-hours, the Court shall endeavour to fix the daily working-hours so that no part of the working
5 period falls on a Saturday.

Saturday work to be eliminated where practicable.

21. (1) Section ninety-two of the principal Act is hereby amended by omitting the word "specified" from paragraph (b) of subsection one thereof, and also from the third proviso to that paragraph. Subject to the provisions of this section, the powers conferred on the Court
10 by the said paragraph (including the said proviso), or by subsection three of the same section, may be exercised in respect of any trade-union, industrial union, industrial association, or employer, whether specified in the order of
15 the Court or not.

Further extension of powers of Court to amend awards.

(2) The said section ninety-two is hereby further amended as follows:—

(a) By repealing the first proviso to paragraph (b) of subsection one, and substituting the following
20 proviso:—

“Provided that the Court shall not, under the authority of this paragraph, extend an award to join and bind any employer as party thereto unless it is satisfied that a majority
25 of the employers in the district who are engaged in the industry to which the award relates are already bound by the award”:

(b) By adding to paragraph (c) of subsection one the words “or in any other case where the Court,
30 on the application of any party to the award, is satisfied that it is necessary or desirable that the award be amended”.

22. (1) Where the Court, pursuant to the powers conferred on it by section ninety-two of the principal Act
35 as amended by the *last preceding* section, extends any award so as to join and bind as party thereto any unspecified trade-union, industrial union, industrial association, or employer, any such trade-union, industrial union, industrial association, or employer may, at any time
40 within one month thereafter, apply to the Court for total or partial exemption from the award, and the Court may grant such exemption accordingly or may refuse to grant such exemption.

Exemption from general order of Court extending award to unspecified unions or unspecified employers.

(2) The fact that application for exemption from the terms of any award has been made under this section and has not been disposed of shall not relieve any person or any union or association from his or its obligation to conform to the award. 5

Consequential amendment of section 93 of principal Act.

23. Section ninety-three of the principal Act is hereby amended by adding to subsection two the words :—

“ Provided that where application is made that the award be extended so as to join as party thereto any unspecified trade - union, industrial union, industrial association, or employer, it shall be sufficient compliance with this section if notice of the application is given by advertisement or otherwise in such manner as may be prescribed by rules of Court, or, in the absence of such rules, in such manner as the Court directs.” 10 15

Suit instituted by any Inspector of Awards may be continued by any other such Inspector.

24. Section one hundred and thirty of the principal Act is hereby amended by adding to subsection three the following words : “ Any such action that is brought at the suit of an Inspector of Awards may be continued by the same or any other Inspector of Awards ”. 20

Extension of time for commencing actions under principal Act.

25. (1) Sections one hundred and forty-one and one hundred and forty-six of the principal Act are hereby respectively amended by omitting therefrom the word “ six ”, and in each case substituting the word “ twelve ”.

(2) The extension of time for the commencement of actions provided for in the *last preceding* subsection shall apply in any case where the cause of action has arisen within twelve months before the commencement of this Act. 25

Section 143 of principal Act (imposing restrictions on amounts chargeable as admission fees or as subscriptions to unions) amended.

26. (1) Section one hundred and forty-three of the principal Act is hereby amended by omitting from subsection one the words “ and no subscription exceeding one shilling per week ”. 30

(2) The said section is hereby further amended by inserting, after subsection two thereof, the following subsection :— 35

“ (2A) It shall not be competent for any industrial union of workers, or for any society of workers bound by an agreement under section eight of the Labour Disputes Investigation Act, 1913, to provide in its rules for the payment by its members of subscriptions exceeding one shilling a week unless the rules, in so far as they relate to the subscriptions payable by members, have 40

See Reprint of Statutes, Vol. III, p. 1021

been adopted at a meeting of which not less than seven days' notice in writing was sent to every member, and such notice contained an express statement to the effect that the purpose or one of the purposes for which
5 the meeting was called was to adopt rules providing for the payment by members of subscriptions at a rate exceeding one shilling a week."

27. Section one hundred and fifty-four of the principal Act (restricting the operation of awards and industrial
10 agreements to workers employed for pecuniary gain) is hereby repealed. Repeal.

28. (1) Section one hundred and fifty-five of the principal Act is hereby repealed. Application of awards and industrial agreements to relief and certain other workers.

(2) Section thirteen of the Industrial Conciliation and
15 Arbitration Amendment Act, 1932, is hereby repealed. Inspector of Awards may recover arrears of wages on behalf of worker subject to an award or industrial agreement.

29. Without affecting any other civil remedies for the recovery of wages payable to any person employed in an industry to which any award or industrial agreement under the principal Act relates, civil proceedings for the
20 recovery of such wages may be taken by any Inspector of Awards, in the name and on behalf of the person entitled to payment, in any case where the Inspector is satisfied that default in payment has been made. Cf. 1921-22, No. 42, s. 32 (e); see Reprint of Statutes, Vol. III, p. 216