

# INDUSTRIAL CONCILIATION AND ARBITRATION AMENDMENT BILL

## EXPLANATORY NOTE

### PART I

#### DISPUTED ELECTIONS IN UNIONS

THIS Part authorizes the Court of Arbitration to hold an inquiry into an election to any office or position in an industrial union of employers or workers if application for an inquiry is made in the prescribed manner and time by a member of the union to the Registrar of Industrial Unions, and if the Registrar is satisfied that there are reasonable grounds for the inquiry. *Subclause (3)* of *clause 4* enables the Registrar, with the authority of the Court, to exercise powers of inspection, &c., for the purpose of investigating an application for an inquiry.

At an inquiry the Court is to hear the interested parties (including counsel for the Crown if the Attorney-General intervenes), and if the Court finds any irregularities that have affected or may affect the election it may declare the election void and either declare some other person to be elected or direct another election to be held.

The payment of costs and expenses by the Crown, if the Attorney-General thinks fit, is provided for by *clause 12*.

*Clause 13* requires that all ballot papers and other documents relating to an election (whether an inquiry is applied for or not) shall be kept at the office of the union or branch for not less than one year after the election.

*Clause 14* enables an election to be conducted by the Registrar of Industrial Unions if a union or branch of a union requests him to do so and pays the expenses incurred by him.

*Clause 15* enumerates various offences in connection with elections.

By virtue of section 26 (2) of the Industrial Conciliation and Arbitration Act, 1925, the provisions of the Bill relating to unions apply, with the necessary modifications, to industrial associations.

### PART II

#### MISCELLANEOUS AMENDMENTS

##### *Compulsory Unionism*

*Clause 17* provides that an industrial union of workers shall take a secret ballot of its members on the question of compulsory unionism, if a written requisition is made by five per cent of the members or two hundred members, whichever is the less. The reasonable expenses incurred by the union will be payable by the Crown. The Registrar of Industrial Unions is to conduct a ballot if a union fails to comply with a requisition. Subsequent ballots may be taken at intervals of not less than two years. *Subclauses (11)* and *(13)* provide for exemption from compulsory unionism or its restoration, according to the

result of any ballot. *Subclause (12)* enables the Court to amend awards and industrial agreements so as to provide for preference to unionists in any case where compulsory unionism ceases to apply. *Subclause (14)* applies Part I of the Bill, so that an inquiry may be held by the Court where there are irregularities affecting any ballot conducted by a union under *clause 17*.

*Clause 18* enables the Registrar of Industrial Unions to exempt any person from membership of a union on religious grounds without affecting his right to be employed, on condition that he proves that his objection is genuine and pays the amount of the union subscription to the Social Security Fund. *Subclause (2)* enables an appeal to be made to the Court of Arbitration from any refusal by the Registrar to grant exemption.

#### *Levies and Subscriptions*

*Clause 19* prohibits levies on members of unions except in accordance with a resolution passed by a majority of the votes at a secret postal ballot of the members. The clause also provides that any rules which require payment of a subscription exceeding 1s. a week for a union or society of workers shall not be valid unless adopted by a majority of the votes at a secret postal ballot of the members of the union or society. Under the law as it stands at present any such rules are invalid unless adopted at a meeting of which not less than seven days' notice has been sent to every member stating the effect of the proposed rules.

#### *Rules of Unions*

*Clause 20* requires the rules of an industrial union of employers or workers to provide—

- (a) That the committee of management and the president, secretary, and other officers and delegates and position holders are to be elected unless the Registrar approves of their being appointed:
- (b) That the elections are to be by secret ballot, or by such other method as may be approved by the Registrar as being sufficiently democratic, having regard to the form of government of the union and all other relevant considerations:
- (c) For the powers and duties of the committee and officers and delegates and position holders:
- (d) For any matter required by any Act to be included in the rules.

*Subclauses (3)* and *(4)* enable the Registrar to call upon an existing union to amend its rules to conform with the section, and, in case of default, to amend the rules himself.

*Clause 21* extends section 4 of the Industrial Conciliation and Arbitration Amendment Act, 1936. Section 4 as originally enacted provides that, where there is an existing industrial union or trade union, no new industrial union covering the same employers or workers may be registered without the concurrence of the Minister. The present amendment provides that the concurrence of the Minister must similarly be obtained before any industrial union may alter its rules so as to include in its membership any employers or workers who could already properly belong to another existing industrial union or trade union.

### *Disputes Committees*

*Clause 22* enables provision to be made in any award or industrial agreement to the effect that any party to a dispute as to a matter arising out of the award or agreement, but not specifically dealt with therein, may require the appointment of a Local Disputes Committee, which will have power to decide the dispute or to refer it to a Conciliation Commissioner for reference by him either to a National Disputes Committee or to the Court of Arbitration.

*Clause 23* provides that in any award or industrial agreement relating to two or more industrial districts provision may be made for the appointment of a National Disputes Committee, which would have power to decide any dispute referred to it from a Local Disputes Committee, or to refer it to the Court of Arbitration. Each Disputes Committee (Local or National) is to consist of an equal number of representatives (not exceeding three) nominated respectively by the workers' union and the employer or employers concerned, together with a Chairman to be agreed upon by the parties or, in default of agreement, to be appointed by a Conciliation Commissioner or (in the case of a National Committee) by the Registrar of Industrial Unions.

*Clause 24* provides for the procedure and decisions of Disputes Committees, and *clause 25* provides for appeals from Disputes Committees to the Court of Arbitration.

### *Awards*

*Clause 26* provides that the date for the coming into operation of the rates of wages fixed in any award shall be *two months after* the date first appointed for the hearing by the Conciliation Council, unless the Court appoints another date. Under the law as it stands at present these wage rates operate from the date first appointed for the hearing by the Conciliation Council unless the Court appoints another date. Under the present amendment the earliest date from which the wage rates in an award will normally operate will be *two months after* the date first appointed for the hearing by the Conciliation Council.

*Clause 27* enables an award to be amended during its currency where all the *original* parties to the award so desire. At present the added and subsequent parties also have to agree.

### *Appeals from Deputy Judges and Magistrates*

*Clause 28* provides that any decision of a Deputy Judge of the Court of Arbitration shall only take effect as a decision of the Court if no appeal is lodged within the prescribed time.

*Clause 29* makes similar provision as to decisions of Magistrates acting under delegations from the Court of Arbitration.

### *Miscellaneous*

*Clause 30* provides that the terms of a settlement or partial settlement and industrial agreements arrived at by a Council of Conciliation, instead of being signed by all the assessors, are to be signed by one or more of the assessors for each side, and also by the Conciliation Commissioner.

*Clause 31* requires unions to furnish to their members on demand a copy of the latest statement of receipts and expenditure, together with a copy of the auditor's report.

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Hon. Mr. Sullivan

INDUSTRIAL CONCILIATION AND  
ARBITRATION AMENDMENT

ANALYSIS

Title.	
1. Short Title.	
PART I	
DISPUTED ELECTIONS IN UNIONS	
2. Interpretation.	
3. Applications for inquiries as to elections.	
4. Action by Registrar.	
5. Jurisdiction and procedure of Court.	
6. Directions as to hearing.	
7. Interim order.	
8. Procedure at hearing.	
9. Functions and powers of Court.	
10. Enforcement of orders.	
11. Validation of certain acts, &c.	
12. Costs.	
13. Ballot papers, &c., to be preserved.	
14. Registrar to conduct elections upon request.	
15. Offences in connection with elections.	
16. Penalty for offences.	
PART II	
MISCELLANEOUS AMENDMENTS	
<i>Compulsory Unionism</i>	
17. Provision for secret ballots of members of unions on question of compulsory unionism.	
18. Exemption from union membership on religious grounds.	
<i>Levies and Subscriptions</i>	
19. Restrictions as to levies and subscriptions payable by members of unions.	
<i>Rules of Unions</i>	
20. Rules of industrial unions as to election of officers by secret ballot, and as to statutory provisions.	
21. Restricting extension of unions.	
<i>Disputes Committees</i>	
22. Local Disputes Committees. Repeal.	
23. National Disputes Committees.	
24. Procedure and decisions of Disputes Committees.	
25. Appeals from decisions of Disputes Committees.	
<i>Awards</i>	
26. Date of commencement of provisions of award as to rates of wages.	
27. Power to amend award at request of original parties.	
<i>Appeals from Deputy Judges and Magistrates</i>	
28. Awards, &c., made by Deputy Judges to become binding if not appealed against.	
29. Awards, &c., made by Magistrates to become binding if not appealed against.	
<i>Miscellaneous</i>	
30. Mode of execution of terms of settlement or partial settlement, and of industrial agreements.	
31. Union to furnish copy of accounts to members on demand.	

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, 1950, 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**

PART I

DISPUTED ELECTIONS IN UNIONS

- Interpretation.** 2. (1) In this Part of this Act, unless the context otherwise requires,—
- “ Election ”, in relation to any office, means an election for the filling of that office; and includes a ballot for removal from that office or for filling a vacancy in that office: 15
- “ Inquiry ” means an inquiry by the Court under this Part of this Act: 20
- “ Irregularity ”, in relation to an election for an office, includes a breach of the rules of a union; and also includes any act, omission, or other means whereby the full and free recording of votes by all persons entitled to record votes, and by no other persons, or a correct ascertainment or declaration of the results of the voting is, or is attempted to be, prevented or hindered: 30
- “ Office ”, in relation to any union or branch of a union, means—
- (a) The office or position of a member of the committee of management of the union or branch; 35

(b) The office or position of a person holding, whether as trustee or otherwise, property of the union or branch, or property in which the union or branch has a beneficial interest; and

(c) Every office or position within the union or branch in relation to which an election is conducted within the union or branch:

“ Person ” includes a corporation sole; and also includes a body of persons, whether incorporated or not:

“ Union ” means an industrial union registered under the principal Act.

(2) For the purposes of this Part of this Act an election shall be deemed to be completed when the result is announced.

3. (1) Where a member of a union claims that there has been an irregularity in or in connection with an election in respect of an office in the union or any branch thereof, he may lodge an application for an inquiry by the Court into the matter. Applications for inquiries as to elections.

(2) An application under this section shall—

(a) Be in writing in accordance with the prescribed form:

(b) Be lodged with the Registrar of Industrial Unions before the completion of the election or within one month after the completion of the election:

(c) Specify the election in respect of which the application is made and the irregularity which is claimed to have occurred, and state the facts relied on in support of the application:

(d) Be accompanied by a statutory declaration by the applicant declaring that the facts stated in the application are, to the best of the applicant's knowledge and belief, true.

4. (1) Where an application under the *last preceding* section is lodged with the Registrar,— Action by Registrar.

(a) If he is satisfied—

(i) That there are reasonable grounds for an inquiry into the question whether there has been an irregularity in or in connection with the election which may have affected or may affect the result of the election; and

(ii) That the circumstances of the matter justify an inquiry by the Court under this Part of this Act,—

he shall grant the application and refer the matter to the Court; or

(b) If he is not so satisfied, he shall refuse the application and inform the applicant accordingly. 5

(2) The Registrar may exercise his powers under the *last preceding* subsection upon the basis of the matters stated in the application, but he may nevertheless take into account any relevant information coming to his knowledge. 10

(3) At any time after the lodging with the Registrar of an application for an inquiry in connection with an election, the Court may authorize the Registrar, by himself or by any person acting on his behalf,— 15

(a) To inspect any ballot papers, envelopes, lists, or other documents which have been used in connection with or are relevant to the election: 20

(b) For the purposes of any such inspection, to enter, with such assistance as he considers necessary, any premises used or occupied by the union or any branch thereof in which he believes any such ballot papers, envelopes, lists, or documents to be: 25

(c) To require any person to deliver to him, in accordance with the requirement, any such ballot papers, envelopes, lists, or other documents in the possession or under the control of that person: 30

(d) To take possession of any such ballot papers, envelopes, lists, or other documents:

(e) To retain any ballot papers, envelopes, lists, or other documents delivered to him, or of which he has taken possession, until the completion of the proceedings arising out of the application or until such earlier time as the Court orders. 35

(4) Before authorizing any action under the *last preceding* subsection the Court shall, if it is of opinion that, having regard to all the circumstances, any person should be given an opportunity of objecting to the proposed action, give an opportunity to that person to object either personally or by agent or by barrister or solicitor.

(5) Every person commits an offence against this Part of this Act who—

(a) Refuses or fails to comply with a requirement under this section:

(b) Obstructs or hinders the Registrar or any other person in the exercise of his powers under this section.

(6) An act or decision of the Registrar under this section shall not be subject to appeal to the Court.

5. (1) Upon the reference of any matter to the Court under the *last preceding* section, the inquiry shall be deemed to have been instituted in the Court.

Jurisdiction  
and procedure  
of Court.

(2) Notwithstanding anything contained in section eighty-three of the principal Act, the jurisdiction of the Court in and in relation to an inquiry or an application for an inquiry and in matters arising out of an inquiry or any such application shall be exercised by a Judge alone.

(3) Subject to the provisions of this Part of this Act, the provisions of the principal Act as to the jurisdiction and procedure of the Court, including in particular section four of the Industrial Conciliation and Arbitration Amendment Act (No. 2), 1937, and section four of the Industrial Conciliation and Arbitration Amendment Act, 1947, shall, so far as they are applicable and with the necessary modifications, apply in relation to an inquiry in like manner as they apply to other proceedings before the Court:

1937, No. 10

1947, No. 15

Provided that every order or decision made under this Part of this Act by a Deputy Judge or Magistrate to whom the Court has delegated any of its powers or functions shall take effect as an order of the Court upon being signed by the Deputy Judge or Magistrate and filed with the appropriate Clerk of Awards or other officer of the Court, and shall not be subject to appeal.



Directions as  
to hearing.

6. Where an inquiry has been instituted, a Judge shall fix a time and place for conducting the inquiry, and may give such directions as he thinks necessary to ensure that all persons who are justly entitled to appear or be represented at the inquiry are notified of the time and place so fixed. 5

Interim order.

7. (1) At any time after an inquiry in connection with an election has been instituted, the Court may, if it thinks fit, make one or more of the following orders:— 10

(a) An order that no further steps be taken in the conduct of the election or in carrying into effect the result of the election:

(b) An order that a person who has assumed an office or continued to act in an office, or claims to occupy an office, being an office to which the inquiry relates, shall not act in that office: 15

(c) An order that a person who holds, or who last held before the election, an office to which the inquiry relates may act or continue to act in that office: 20

(d) Where it considers that an order under the *last preceding* paragraph would not be practicable or would be prejudicial to the efficient conduct of the affairs of the union or branch or would be inappropriate having regard to the nature of the inquiry, an order that any person specified in the order may act in an office to which the inquiry relates: 25

(e) An order incidental or supplementary to an order under this subsection: 30

(f) An order varying or discharging an order under this subsection.

(2) Where the Court orders that a person may act or continue to act in any office, that person shall, while the order continues in force, and notwithstanding anything contained in the rules of the union, be deemed for all purposes to hold the office. 35

(3) An order under this section shall continue in force, unless expressed to operate for a shorter period or unless sooner discharged, until the completion of the proceedings in the Court in connection with the election and of all matters ordered (otherwise than under this section) by the Court in those proceedings. 40

8. (1) The Court shall allow to appear or be represented at an inquiry (either personally or by agent or by barrister or solicitor) all persons who apply to the Court for leave to appear or be represented, being  
5 persons who appear to the Court to be justly entitled to be heard, and the Court may order any other person so to appear or be represented.

Procedure at hearing.

(2) The persons appearing or represented, or ordered to appear or be represented, at an inquiry  
10 shall be deemed to be parties to the proceedings.

(3) The Attorney-General may, at any stage of an inquiry, intervene by barrister or solicitor on behalf of the Crown.

9. (1) At an inquiry the Court shall inquire into  
15 and determine the question whether any irregularity has occurred in or in connection with the election, and such further questions concerning the conduct and results of the election as the Court thinks necessary.

Functions and powers of Court.

(2) In the course of conducting an inquiry the  
20 Court may make such orders (including an order for the recounting of votes) as the Court thinks necessary for the purposes of the inquiry.

(3) If the Court finds that an irregularity has occurred, the Court may, in its discretion, but subject  
25 to subsection *four* of this section, make one or more of the following orders:—

(a) An order declaring the election, or any steps taken in or in connection with the election, to be void:

30 (b) An order declaring a person purporting to have been elected not to have been elected, and declaring another person to have been elected:

35 (c) An order directing a new election to be held, or any step in or in connection with the election (including the submission of nominations) to be taken again, in accordance (subject to any order under the *next succeeding* paragraph) with the rules of the union:

(d) An order directing, notwithstanding anything contained in the rules of the union, the taking of such safeguards as the Court thinks necessary against irregularities in or in connection with— 5

(i) Any such new election:

(ii) Any such steps so ordered to be taken again:

(iii) Any uncompleted steps in the election,— 10

and, for the purposes of any such order, an order appointing and authorizing a person to act as a returning officer instead of or in conjunction with the returning officer (if any) acting under the rules of the union in connection with the election, and to exercise such powers as the Court directs: 15

(e) An order incidental or supplementary to any order under this section.

(4) The Court shall not declare an election, or any step taken in or in connection with an election, to be void, or declare that a person was not elected, unless the Court is of opinion that, having regard to the irregularity found, and any circumstances giving rise to a likelihood that similar irregularities may have occurred or may occur, the result of the election may have been affected, or may be affected, by irregularities. 20 25

Enforcement of orders.

10. (1) The Court may make such orders as it thinks necessary for the effectual exercise of its powers and functions and the enforcement of its orders under this Part of this Act. 30

(2) Every person commits an offence against this Part of this Act who refuses or fails to comply with an order of the Court under this Part of this Act or obstructs or hinders the carrying out of any such order. 35

(3) Nothing in this section shall affect the powers of the Court in relation to the punishment of contempt of Court.

Validation of certain acts, &c.

11. (1) Where the Court declares void the election of a person who has, since the election, purported to act in the office to which he purported to have been elected, all acts done by him while so purporting to act which could validly have been done by him if he had been duly elected shall, subject to this section, be valid and effectual for all purposes. 40 45

(2) The Court may, if it considers it desirable to do so, declare any such act to have been void, and thereupon that act shall for all purposes be deemed not to have been validly done.

5 (3) Where an election is held, or any step in or in connection with an election is taken, in pursuance of an order of the Court, that election or step shall not be invalidated by reason only of any departure from the rules of the union involved in compliance with the order  
10 of the Court.

12. (1) Where upon an inquiry the Court finds that **Costs**  
an irregularity has occurred, the Attorney-General may, if he considers the circumstances to justify him in so doing, authorize payment by the Crown to the person  
15 who applied for the inquiry of the whole or a part of his costs and expenses (including expenses of witnesses).

(2) Where, upon an inquiry, the Court does not find that an irregularity has occurred, but certifies that the person who applied for the inquiry acted reasonably in  
20 so applying, the Attorney-General may authorize payment by the Crown to that person of the whole or a part of his costs and expenses (including expenses of witnesses).

(3) Where the Attorney-General is satisfied that,  
25 having regard to the findings of the Court upon an inquiry, it is not just that a person (not being the person who applied for the inquiry) should be required to bear, or to bear in full, any expenses (including expenses of witnesses) incurred by him in connection with the  
30 inquiry, the Attorney-General may authorize payment by the Crown of the whole or a part of those expenses.

(4) Where the Court orders—

(a) A new election to be held:

35 (b) Any step in or in connection with an election to be taken again:

(c) Any safeguards, not provided for in the rules of the union, to be taken in or in connection with any uncompleted steps in an election,—

40 the Attorney-General may, if he is satisfied that the nature of the irregularity found by the Court to have occurred is such that it would be unreasonable for the

union to be required to bear, or to bear in full, the expenses involved in compliance with the order of the Court, authorize payment by the Crown of the whole or a part of those expenses.

(5) All payments authorized by the Attorney-General under this section shall be paid out of moneys to be appropriated by Parliament. 5

(6) Nothing in this section shall limit the power of the Court to make an order as to the costs and expenses (including expenses of witnesses) of proceedings before the Court in or in connection with an inquiry. 10

Ballot papers,  
&c., to be  
preserved.

**13.** (1) Notwithstanding anything contained in the rules of the union, every union and every officer of a union or branch of a union who is able to do so shall take such steps as are necessary to ensure that all ballot papers, envelopes, lists, and other documents used in connection with, or relevant to, an election for an office are preserved and kept at the registered office of the union, or (if the election is for an office in a branch of the union) at the office of that branch, for a period of one year after the completion of the election. 15 20

(2) Every union or officer that fails to comply with the foregoing provisions of this section commits an offence against this Part of this Act.

Registrar to  
conduct  
elections upon  
request.

**14.** (1) Any union or branch of a union may request the Registrar of Industrial Unions to conduct an election for an office in the union or branch with a view to ensuring that no irregularity occurs in or in connection with the election. 25

(2) Upon the making of any such request, the Registrar, if he considers that it is practicable for him to do so, and upon being satisfied that the expenses to be incurred in so doing have been or will be paid by the union or branch, may, by himself or by any person designated by him in that behalf, conduct the election, and may, notwithstanding anything contained in the rules of the union, take such action and give such directions as he considers necessary with a view to ensuring that no irregularities occur in or in connection with the election. 30 35 40

(3) Every person commits an offence against this Part of this Act who—

(a) Refuses or fails to comply with a direction of the Registrar or the designated person under this section: 45

(b) Obstructs or hinders the Registrar or the designated person in the taking of any action under this section or any person in the carrying out of a direction of the Registrar or the designated person under this section.

5

(4) Where the Registrar or a person designated by him is conducting or has conducted an election, the provisions of this Part of this Act relating to inquiries shall not apply in relation to that election.

10

(5) An election shall not be invalidated by reason of any breach of the rules of the union involved in any act, or in compliance with any direction, of the Registrar or the designated person under this section.

15 **15.** (1) Every person commits an offence against this Part of this Act who, without lawful authority or excuse, in or in connection with an election for an office,—

Offences in connection with elections

(a) Personates another person to secure a ballot paper to which the personator is not entitled, or personates another person for the purpose of voting:

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(b) Destroys, defaces, alters, takes, or otherwise interferes with a nomination paper, ballot paper, or envelope:

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(c) Puts a ballot paper or other paper into a ballot box or other ballot receptacle, or into the post:

30

(d) Delivers a ballot paper or other paper to a person receiving ballot papers for the purposes of the election:

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(e) Records a vote which he is not entitled to record:

(f) Records more than one vote:

(g) Forges a nomination paper, ballot paper, or envelope:

(h) Supplies a ballot paper:

40

(i) Obtains, or has in his possession, a ballot paper:

(j) Destroys, takes, opens, or otherwise interferes with a ballot box.

(2) Every person commits an offence against this Part of this Act who, in or in connection with an election for an office,—

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(a) Threatens, offers, or suggests any violence, injury, punishment, damage, loss, or disadvantage for or on account of, or to induce—

45

(i) Any candidature or withdrawal of candidature:

(ii) Any vote or omission to vote:

(iii) Any support or opposition to any candidate:

(iv) Any promise of any vote, omission, support, or opposition: 5

(b) Uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support, or opposition.

Penalty for offences.

16. Every person who commits an offence against this Part of this Act shall be liable on summary conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine. 10

## PART II

15

### MISCELLANEOUS AMENDMENTS

#### *Compulsory Unionism*

Provision for secret ballots of members of unions on question of compulsory unionism.

17. (1) Where a requisition for a ballot on the question of compulsory unionism is made by not less than the prescribed number of members of an industrial union of workers, the union shall take a secret ballot of the members of the union on the question. 20

(2) For the purposes of this section the prescribed number of members of a union shall be—

(a) Five per cent of the number of members of the union as shown in the last yearly return forwarded to the Registrar by the union under section seventeen of the principal Act; or 25

(b) Two hundred,—  
whichever is the less. 30

(3) A requisition for a ballot under this section shall consist of a written application or two or more written applications, specifying in respect of each applicant the name of the union, the applicant's name, address, and occupation, and the name and address of his employer. 35

(4) Every such requisition shall be made to the Registrar of Industrial Unions. Upon being satisfied that a requisition has been made by not less than the prescribed number of members of a union, the Registrar shall issue to the secretary of the union a certificate 40

that the requisition has been duly made; and every such certificate shall be conclusive evidence of the fact stated therein.

5 (5) Where a ballot is taken by any union under this section there shall be paid to the union, out of moneys to be appropriated by Parliament, such amount as the Registrar deems reasonable on account of the expenses of and incidental to the taking of the ballot.

10 (6) If any union fails to take a ballot under this section within such time as the Registrar considers reasonable after a requisition therefor has been duly made and notified to the secretary of the union as aforesaid, the Registrar shall, by himself or by any person designated by him in that behalf, conduct the  
15 ballot.

(7) The question at any ballot under this section shall be submitted in the following form, the method of voting being for the voter to strike out one line, leaving untouched the line which shows the way in  
20 which he wishes to vote, namely:—

I vote FOR compulsory unionism.

I vote AGAINST compulsory unionism.

(8) The result of every ballot under this section shall be determined by a majority of the valid votes cast, and  
25 (except where the ballot is conducted by the Registrar) shall be forthwith notified by the secretary of the union to the Registrar of Industrial Unions.

(9) Forthwith after the completion of every ballot under this section the Registrar of Industrial Unions  
30 shall publish in the *Gazette* notice of the result of the ballot.

(10) Where a ballot of the members of any union has been taken under this section no further ballot of the members on the question of compulsory unionism shall  
35 be taken for a period of at least two years from the date of the gazetting of the result of the previous ballot.

(11) Where the result of any ballot under this section of the members of a union to which compulsory unionism applies is against compulsory unionism, section  
40 eighteen of the Industrial Conciliation and Arbitration Amendment Act, 1936, and every provision included or deemed to be included pursuant to that section in any award or industrial agreement shall, on the expiration of seven days after the date of the gazetting of notice of



the result of the ballot, cease to have effect in so far as they relate to the employment of any workers who belong or could properly belong to that union.

(12) On the application of any industrial association or union of workers that is an original party to any award or industrial agreement affected by subsection *eleven* of this section, the Court may amend the award or industrial agreement during its currency for the purpose of providing for the following industrial matter:—

That members of any industrial union of workers that is a party to the award or industrial agreement shall be employed in preference to persons who are not members of any such union, subject to the inclusion in the rules of the union of provisions complying with such requirements as to the admission of members and the continuance of membership as the Court may prescribe.

(13) Where the result of any ballot under this section of the members of a union to which compulsory unionism does not apply is in favour of compulsory unionism, then, subject to the operation of subsection *eleven* of this section in relation to any other union, section eighteen of the Industrial Conciliation and Arbitration Amendment Act, 1936, shall, from the expiration of seven days after the date of the gazetting of notice of the result of the ballot, apply in relation to every award or industrial agreement by which the union is bound.

1936, No. 6

(14) *Part I* of this Act shall, as far as it is applicable and with the necessary modifications, apply with respect to every ballot under this section (not being a ballot conducted by the Registrar) as if it were an election in respect of an office in the union.

(15) To enable the Registrar to determine whether a requisition has been duly made under this section, or to enable the Registrar to conduct a ballot under this section, the union and the officers thereof shall provide or make available to the Registrar, or to any person designated by him, within such time and in such manner as the Registrar or person aforesaid may require, such

assistance, facilities, and information as may be deemed necessary by the Registrar, or by the person designated as aforesaid.

(16) Every person who—

- 5 (a) Refuses or fails to comply with any requirement made under the *last preceding* subsection by the Registrar or by any person designated by him:
- 10 (b) Resists, obstructs, or deceives, or attempts to resist, obstruct, or deceive the Registrar or any other person in the exercise or attempted exercise of any power or function under this section:
- 15 (c) Interrupts, impedes, or interferes with the conduct of a ballot under this section,—

commits an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds.

18. (1) Where any person objects on religious grounds to being a member of a union, he shall, on satisfying the Registrar of Industrial Unions that his religious objections are genuine, and on payment to the credit of the Social Security Fund of an amount equal to the subscription fixed by a union covering the calling in which that person is from time to time employed, be issued with a certificate of exemption from membership of that union for the period specified in the certificate.

Exemption  
from union  
membership  
on religious  
grounds.

- 25 (2) Any person who is refused a certificate of exemption by the Registrar may appeal from the refusal to the Court. On any such appeal the Court, if it is satisfied that the appellant's religious objections are genuine, shall direct the Registrar to issue to the appellant a certificate of exemption as aforesaid, and, if not so satisfied, shall dismiss the appeal.

- 30 (3) A certificate of exemption issued to any person under this section shall, while it continues in force, permit the employment or the continuation of the employment of that person in any position or employment as if he were a member of the union to which the
- 35 certificate relates.
- 40

*Levies and Subscriptions*

Restrictions as  
to levies and  
subscriptions  
payable by  
members of  
unions.  
1936, No. 6

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

1936, No. 6

19. (1) Section one hundred and forty-three of the principal Act, as amended by section twenty-eight of the Industrial Conciliation and Arbitration Amendment Act, 1936, is hereby further amended by repealing subsections two and two A, and substituting the following subsections:— 5

“(2) No levy shall be payable by any member of any industrial union of workers or of employers or by any member of any society of workers bound by an agreement under section eight of the Labour Disputes Investigation Act, 1913, except in accordance with a resolution passed by a majority of the valid votes cast at a secret postal ballot of the members of the union or society. 10 15

“(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 been adopted by a majority of the valid votes cast at a secret postal ballot of the members of the union or society. 20

“(2B) Every person who compels or attempts to directly or indirectly compel any person to pay any sum in contravention of this section shall be liable to a penalty not exceeding one hundred pounds in the case of a union or society or employer and not exceeding five pounds in the case of a worker, recoverable in either case in the same manner as a penalty for a breach of an award; and all the provisions of this Act with respect to the enforcement of an award shall, as far as they are applicable, apply accordingly.” 25 30

(2) Section twenty-eight of the Industrial Conciliation and Arbitration Amendment Act, 1936, is hereby consequentially amended by repealing subsection two. 35

*Rules of Unions*

20. (1) Section five of the principal Act is hereby amended by repealing subparagraphs (i) and (ii) of paragraph (c) of subsection one, and substituting the following subparagraphs:—

Rules of industrial unions as to election of officers by secret ballot, and as to statutory provisions.

5  
10  
15  
20  
“(i) The election or (if approved by the Registrar) the appointment of a committee of management, a president, a secretary, and any other necessary officers or delegates or position holders of the society or of any branch thereof, and the removal of any of them, and the filling of vacancies, so that the election, removal, and filling of vacancies shall be by secret ballot of the members of the society or branch, or by such other method as may be approved by the Registrar as being sufficiently democratic, having regard to the form of government of the society and all other relevant considerations:

20  
“(ii) The powers and duties of the committee and of the president and secretary and of any other officers or delegates or position holders;”.

25 (2) Section five of the principal Act is hereby further amended by inserting in paragraph (c) of subsection one, after subparagraph (x), the following new subparagraph:—

30  
“(xA) Any matter that is for the time being deemed or required by this or any other Act to be included in the rules:”.

35  
40 (3) The Registrar may at any time require any industrial union which is registered at the passing of this Act to amend its rules to bring them into conformity with section five of the principal Act as amended by this section, and any such amendment may be made by the committee of management of the union. If any such requirement is not complied with within such period as may be specified by the Registrar, the Registrar may amend the rules in such manner as he thinks fit in order to give effect to the requirement, and may record the amendment.

(4) Where the Registrar amends any rules and records the amendment under this section he shall supply a copy of the amendment to the secretary of the union concerned, and the rules shall thereupon be deemed to be amended accordingly on and from the date of the recording of the amendment. 5

Restricting  
extension  
of unions.  
1936, No. 6

**21.** Section four of the Industrial Conciliation and Arbitration Amendment Act, 1936, is hereby amended, as from the passing of that Act, by inserting, after subsection one, the following subsection:— 10

“(1A) Except with the concurrence of the Minister, it shall not be lawful for the rules of any industrial union of employers or industrial union of workers to be amended or altered for the purpose of extending the membership of the union so as to include employers or workers in or in connection with any industry if there is in the same industrial district an existing union of employers or of workers, as the case may be, registered in respect of that industry (whether or not the maximum number of members of that union is limited by its rules or otherwise), or if there is in the same industrial district an existing trade union which was registered as such before the first day of May, nineteen hundred and thirty-six, and to which employers or workers, as the case may be, in or in connection with that industry could properly belong.” 25

#### *Disputes Committees*

Local Disputes  
Committees.

**22.** (1) In any award or industrial agreement provision may be made to the effect that, if during the operation of the award or industrial agreement any dispute or difference arises between the parties or any of them as to any matter arising out of or connected with the award or agreement but not specifically dealt with therein, the dispute or difference shall be referred at the request of any party thereto to a Local Disputes Committee consisting of an equal number of representatives (not exceeding three) nominated respectively by the workers' union and the employer or employers concerned, together with a Chairman, to be appointed as hereinafter provided. 40

(2) The party desiring reference of any dispute or difference to a Local Disputes Committee shall make application therefor to a Conciliation Commissioner, and

shall notify him of the names and addresses of the persons nominated as members of the Committee by the workers' union or (as the case may be) by the employer or employers.

- 5 (3) The Conciliation Commissioner shall forthwith notify the other party or parties to the dispute or difference of the application, and shall require the other party or parties to notify him within seven days of the names and addresses of the persons nominated as  
10 members of the Committee by the employer or employers or (as the case may be) by the workers' union:

Provided that where provision has been made for the appointment of a National Disputes Committee the Conciliation Commissioner may in his discretion refer the  
15 application to the Registrar of Industrial Unions, and in every such case the dispute or difference shall be deemed to be referred to the National Disputes Committee.

- (4) On receipt of the required nominations the Conciliation Commissioner shall require the nominated  
20 persons to agree on the appointment of a Chairman.

(5) Where a Conciliation Commissioner is satisfied that there has been a refusal or failure to nominate members of a Local Disputes Committee or to appoint a Chairman or to hold a meeting of any such Committee,  
25 or undue delay in doing any of those things, the Commissioner may appoint the required members of the Committee, or appoint himself or any other person as Chairman of the Committee, or call a meeting of the Committee, as the case may be.

- 30 (6) Where a Local Disputes Committee is unable to arrive at a decision after consideration of a dispute or difference, or where the representatives of either party have failed to attend a meeting of the Committee of which they have received notice, the Chairman may in  
35 his discretion either decide the matter, in which case his decision shall be deemed to be the decision of the Committee, or refer it to a Conciliation Commissioner for reference by him in his discretion either to the National Disputes Committee (if any) for decision, or  
40 to the Court for settlement.

(7) Section twelve of the Industrial Conciliation and Arbitration Amendment Act, 1932, is hereby repealed. Repeal.  
1932, No. 4

National  
Disputes  
Committees.

23. (1) In any award or industrial agreement relating to two or more industrial districts or parts thereof provision may be made for the appointment of a National Disputes Committee consisting of an equal number of representatives (not exceeding three) 5 nominated respectively by the workers' union and by the employer or employers concerned, together with a Chairman, to be appointed as hereinafter provided.

(2) The functions of the National Disputes Committee shall be to consider any dispute or difference referred 10 or deemed to be referred to it under the *last preceding* section, being a dispute or difference arising between the parties to the award or industrial agreement or any of them as to any matter arising out of or connected with the award or agreement but not specifically dealt with 15 therein.

(3) The party desiring the appointment of a National Disputes Committee shall make application therefor to the Registrar of Industrial Unions, and shall notify him of the names and addresses of the persons nominated as 20 members of the Committee by the workers' union or (as the case may be) by the employer or employers.

(4) The Registrar shall forthwith notify the other party or parties to the dispute or difference of the application, and shall require the other party or parties 25 to notify him within seven days of the names and addresses of the persons nominated as members of the Committee by the employer or employers or (as the case may be) by the workers' union.

(5) On receipt of the required nominations the 30 Registrar shall require the nominated members to agree on the appointment of a Chairman.

(6) Where the Registrar is satisfied that there has been a refusal or failure to nominate members of a National Disputes Committee or to appoint a Chairman 35 or to hold a meeting of any such Committee, or undue delay in doing any of those things, the Registrar may appoint the required members of the Committee, or appoint himself or any other person as Chairman of the Committee, or call a meeting of the Committee, as the 40 case may be.

(7) Where a National Disputes Committee is unable to arrive at a decision after consideration of a dispute or difference referred or deemed to be referred to it

under the *last preceding* section, or where the representatives of either party have failed to attend a meeting of which they have received notice, the Chairman may in his discretion either decide the matter, in which case his  
5 decision shall be deemed to be the decision of the Committee, or refer it to the Court for settlement.

**24.** (1) The procedure of every National Disputes Committee and Local Disputes Committee shall in all respects be absolutely in the discretion of the Committee,  
10 and the Committee shall not be bound to proceed with the inquiry into any dispute or difference in any formal manner, or formally to sit as a tribunal, or to hear any addresses or evidence save such as the Committee deems necessary or desirable.

Procedure and  
decisions of  
Disputes  
Committees.

15 (2) The Committee may at the inquiry hear any evidence that it thinks fit, whether that evidence would be legally admissible in a Court of law or not, and the inquiry shall be either public or private, as the Committee thinks fit.

20 (3) Subject to the provisions of subsection *six* of section *twenty-two* and of subsection *seven* of section *twenty-three* of this Act, the decision of the majority of the members of any such Committee (excluding the Chairman) shall be the decision of the Committee:

25 Provided that, if the members of the Committee are unable to reach a decision, the decision of the Chairman shall be the decision of the Committee.

30 (4) The decision of every such Committee shall be given in writing signed by the Chairman and filed with the appropriate Clerk of Awards, and shall be notified by the Chairman forthwith by registered letter to the parties to the dispute or difference.

35 (5) In all proceedings the decision of any such Committee may be proved by producing a copy of the decision signed by the Chairman or certified by a Clerk of Awards, or any official printed copy of the decision published by the Department of Labour and Employment; and for the purposes of this subsection judicial notice shall be taken of the signature of the Chairman  
40 or of the Clerk of Awards.

(6) Subject to the right of appeal hereinafter conferred, the decision of any such Committee in respect of any dispute or difference or in respect of any matter



connected with the dispute or difference shall be final and binding on all persons directly affected by the dispute or difference.

(7) No such decision shall be questioned by reason of any omission to notify or hear any person claiming to be concerned or interested in the dispute, or by reason of any matter of form or procedure, or on the ground that due consideration has not been given to any matter that is required by any enactment to be taken into consideration, or on the ground that the decision operates from a date before the day on which it was given, or from a day before the passing of this Act.

(8) Where any decision of any such Committee is inconsistent with the provisions of any award or industrial agreement it shall, to the extent of the inconsistency, be void and of no effect.

(9) Where any decision of any such Committee is of continuing effect it shall continue in force according to its tenor until the current award or industrial agreement binding on the parties is superseded by a subsequent award or industrial agreement.

Appeals from  
decisions of  
Disputes  
Committees.

1947, No. 15

**25.** (1) Any party to the dispute or difference may appeal to the Court of Arbitration against any decision of a National Disputes Committee or of a Local Disputes Committee within the time and in the manner prescribed for appeals from decisions of Deputy Judges of the Court under section six of the Industrial Conciliation and Arbitration Amendment Act, 1947.

(2) In the case of an appeal under this section the Court may deal with the matter by way of rehearing and in all respects as if the matter had not been dealt with by the Committee.

#### Awards

Date of  
commencement  
of provisions  
of award as  
to rates of  
wages.  
1948, No. 77

**26.** Section eighty-nine of the principal Act is hereby amended by inserting in subsection eight, as substituted by section twenty-one of the Statutes Amendment Act, 1948, after the words "shall have effect as from", the words "the expiration of two months after".

27. Section ninety-two of the principal Act is hereby amended by inserting in paragraph (c) of subsection one, before the word "parties", the word "original".

Power to amend award at request of original parties.

*Appeals from Deputy Judges and Magistrates*

5 28. (1) Section five of the Industrial Conciliation and Arbitration Amendment Act, 1947, is hereby amended by repealing subsections two and three, and substituting the following subsections:—

Awards, &c., made by Deputy Judges to become binding if not appealed against.

10 " (2) Where any award, judgment, order, or other instrument is made by a Deputy Judge, it shall be signed by him and filed with the appropriate Clerk of Awards or other officer of the Court, and notice of the making thereof shall forthwith be given to the parties and to such other persons, and in such manner, as may be prescribed by regulations in that behalf made under the principal Act.

1947, No. 15

20 " (3) If an appeal is not lodged under the next succeeding section within the time prescribed in that behalf, the award, judgment, order, or other instrument shall be sealed with the seal of the Court and shall be deemed to have been made by the Court on the day after the expiration of the time so prescribed, and that day shall be deemed to be the date of the award, judgment, order, or other instrument."

25 (2) Section six of the Industrial Conciliation and Arbitration Amendment Act, 1947, is hereby amended by repealing the proviso to subsection two.

30 (3) This section shall not apply in respect of awards, judgments, orders, or other instruments made before the passing of this Act.

29. (1) Section four of the Industrial Conciliation and Arbitration Amendment Act (No. 2), 1937, is hereby amended by repealing subsection four, and substituting the following subsections:—

Awards, &c., made by Magistrates to become binding if not appealed against.

35 " (4) Where any award, judgment, order, or other instrument is made by a Magistrate it shall be signed by him with the addition of the words 'Acting as a duly appointed delegate of the Court of Arbitration' or words to that effect, and shall be filed with the appropriate

1937, No. 10

Clerk of Awards or other officer of the Court, and notice of the making thereof shall forthwith be given to the parties and to such other persons, and in such manner, as may be prescribed by regulations in that behalf made under the principal Act.

5

“(4A) If an appeal is not lodged under the next succeeding subsection within the time prescribed in that behalf, the award, judgment, order, or other instrument shall be sealed with the seal of the Court and shall be deemed to have been made by the Court on the day after the expiration of the time so prescribed, and that day shall be deemed to be the date of the award, judgment, order, or other instrument.”

10

(2) Section four of the Industrial Conciliation and Arbitration Amendment Act (No. 2), 1937, is hereby further amended by repealing the proviso to subsection five.

15

(3) This section shall not apply in respect of awards, judgments, orders, or other instruments made before the passing of this Act.

20

*Miscellaneous*

Mode of execution of terms of settlement or partial settlement, and of industrial agreements.  
1936, No. 6

**30.** (1) Section fifty-five of the principal Act, as amended by section fourteen of the Industrial Conciliation and Arbitration Amendment Act, 1936, is hereby further amended by omitting from subsection one the words “ may be reduced to writing, executed on behalf of the parties by the assessors ”, and substituting the words “ shall be reduced to writing, signed on behalf of the parties by one or more of the assessors for the applicants and by one or more of the assessors for the respondents, and also signed by the Commissioner ”.

25

30

(2) Section fourteen of the Industrial Conciliation and Arbitration Amendment Act, 1936, is hereby amended by omitting from subsection one the words “ by the assessors ”, and substituting the words “ by one or more of the assessors for the applicants and by one or more of the assessors for the respondent, and shall also be signed by the Commissioner ”.

35

(3) Section three of the Industrial Conciliation and Arbitration Amendment Act (No. 2), 1939, is hereby amended as follows:—

5 (a) By inserting in subsection one, after the words  
“ reduced to writing ”, the words “ executed  
in the manner prescribed for an industrial  
agreement made under the said section  
thirteen ”:

10 (b) By inserting in subsection one, after the word  
“ assessors ”, the words “ signing the terms ”.

(4) Subsection two of the said section fourteen of the Industrial Conciliation and Arbitration Amendment Act, 1936, is hereby consequentially repealed.

15 **31.** Section one hundred and forty-four of the principal Act is hereby amended by inserting, after subsection one, the following subsection:—

20 “(1A) Every such union, association, or society shall furnish any member of the union, association, or society on demand, without charge, with a copy of the latest annual statement of its receipts and payments, together with a copy of the auditor’s report thereon.”

Union to  
furnish copy of  
accounts to  
members on  
demand.