

INDUSTRIAL CONCILIATION AND ARBITRATION AMENDMENT BILL

EXPLANATORY NOTE

This Bill contains miscellaneous amendments of the Industrial Conciliation and Arbitration Act 1954.

Clause 2: The effect of this clause is to confer on Inspectors under the Bush Workers Act 1945 and Inspectors under the *Scaffolding and Excavation Act 1922* the powers of Inspectors of Awards, and as such the duty of seeing, during the course of their duties under those Acts, that industrial agreements, awards, and orders of the Court of Arbitration are duly observed.

Clause 3: Section 60 (1) (a) of the principal Act provides that a New Zealand industrial union of employers may be registered only if it has as its members all the employers engaged in the industry or related industries in New Zealand or has a branch of at least three members in each of at least four industrial districts. A corresponding provision appears in section 65 (1) relating to the registration of North Island or South Island unions of employers. This clause modifies the provision in each case requiring all the employers to be members, and provides that a society may be registered as a New Zealand or North Island or South Island union of employers if it has as its members three-fourths of the employers engaged in the industry or related industries in New Zealand or, as the case may be, in the North Island or South Island, employing not less than three-fourths of the workers so engaged.

Clause 4 re-enacts in an amended form the provisions of section 78 of the principal Act relating to the keeping of accounts by unions and the audit of accounts, and makes more specific provision in respect of these matters. The main new requirements provide—

- (a) The books of account must be set out, in such a manner as to enable the same to be conveniently and properly audited, full, true, and complete accounts of the financial affairs and transactions of the union (*subsection (1)*):
- (b) The union must arrange for the audit of its accounts and the preparation of an annual income and expenditure account and an annual balance sheet. Where the annual income of the union is £250 or more, the auditor must be a member of the New Zealand Society of Accountants. In other cases there must be two auditors, neither of whom may be an officer of the union or a member of its executive or committee of management (*subsection (2)*):
- (c) The union must send to the Registrar of Industrial Unions, within three months after the end of its financial year, a certificate by the auditor or auditors that the audit has been duly carried out (*subsection (4)*):

- (d) The duties of the auditors are specified (*subsections (6) and (7)*):
- (e) Where a special audit is carried out by direction of the Registrar, the union must send to the Registrar the auditor's report within seven days after receiving it, together with the accounts of the union (*subsection (9)*):
- (f) Officers of a union commit an offence if they fail to allow any auditor access to books, etc., or to give information and explanations to any auditor, or if they hinder or obstruct any auditor in carrying out the audit (*subsection (10)*):
- (g) Every union must keep its financial records for at least seven years and all vouchers, invoices, receipts, and other documents necessary to verify its books of account (*subsection (12)*):
- (h) Officers of the union who are responsible for the default commit an offence if the union fails to appoint an auditor or auditors, or to forward to the Registrar any certificate or report or book of account as required by the section, or to keep its financial records for seven years (*subsection (13)*):
- (i) The section applies to branches of a union (*subsection (15)*).

Clause 5: Section 135 (4) of the principal Act provides for the nomination of a Conciliation Commissioner for a dispute affecting two or more industrial districts, and enables a substitute Commissioner to be appointed at any time during the hearing of the dispute. This clause re-enacts that provision in an amended form, and enables a substitute Commissioner to be nominated at any time before the dispute is finally disposed of by the Court, e.g., before the hearing actually commences.

Clause 6 provides that where a settlement of a dispute has been arrived at and referred to the Court, and the Court proposes to make an award containing any variation of the terms of settlement, the parties are entitled to appear and be heard on the issue, unless the assessors who signed the memorandum of settlement have notified the Clerk of Awards of their consent, on behalf of the parties, to the variation.

Hon. Mr Hackett

INDUSTRIAL CONCILIATION AND ARBITRATION AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Industrial Conciliation and Arbitration Act 1954

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

10 **1. Short Title**—This Act may be cited as the Industrial Conciliation and Arbitration Amendment Act 1959, and shall be read together with and deemed part of the Industrial Conciliation and Arbitration Act 1954 (hereinafter referred to as the principal Act).

15 **2. Inspectors of Awards**—Section five of the principal Act is hereby amended by inserting in subsection one, after the words “Factories Act 1946”, the words “every Inspector appointed under the Bush Workers Act 1945, and every Inspector appointed under the Scaffolding and Excavation Act 1922”.

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3. Membership of unions of employers—(1) Section sixty of the principal Act is hereby amended by omitting from paragraph (a) of subsection one the words “all the employers engaged in the industry or related industries in New Zealand”, and substituting the words “not less than three-fourths of the employers engaged in the industry or related industries in New Zealand employing not less than three-fourths of the workers so engaged”. 5

(2) Section sixty-five of the principal Act is hereby amended by omitting from the proviso to subsection one the words “all the employers engaged in the industry or related industries in the North Island, or in the South Island”, and substituting the words “not less than three-fourths of the employers engaged in the industry or related industries in the North Island, or in the South Island, employing not less than three-fourths of the workers so engaged”. 10
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4. Accounts to be kept by unions and other organisations and to be audited—(1) The principal Act is hereby amended by repealing section seventy-eight, and substituting the following section: 20

“78. (1) Every union, and every society bound by an agreement under section eight of the Labour Disputes Investigation Act 1913, shall keep books of account in which shall be set out, in such a manner as to enable them to be conveniently and properly audited, full, true, and complete accounts of the financial affairs and transactions of the union or society. 25

“(2) Every such union or society shall arrange for the audit of its accounts, and the preparation of an annual income and expenditure account and an annual balance sheet,—

“(a) In every case where the annual income of the union or society is two hundred and fifty pounds or more, by an auditor who is a member of the New Zealand Society of Accountants: 30

“(b) In every other case, by two suitable persons, not being officers of the union or members of its executive or committee of management (those persons being together referred to in this section as the auditor). 35

“(3) For the purposes of this section it shall be the duty of the union or society and of each and every officer thereof to produce to the auditor all books, papers, accounts, statements, documents, receipts, and securities required by the auditor to enable him to carry out his duties under this section, and to give him such information and explanation as he may reasonably so require. 40
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“(4) Every such union or society shall, within three months after the end of its financial year, deliver to the Registrar a certificate signed by the auditor that he has carried out the audit of the accounts of the union or society and has duly reported on those accounts to the union or society as required by this section.

“(5) Every such union or society shall furnish any financial member of the union or society on demand, without charge, with a copy of the latest annual income and expenditure account and balance sheet, together with the auditor’s report thereon.

“(6) The auditor shall verify the receipts and payments with the accounts and vouchers relating thereto, and shall examine the securities held by the union or society and shall prepare an income and expenditure account and a balance sheet, and shall thereupon either certify that the income and expenditure account and balance sheet are correct, or specially report to the union or society in what respect he finds them, or any of them incorrect or unvouched.

“(7) The auditor shall in every case make a report to the union or society on the accounts examined by him, on the annual income and expenditure account and the annual balance sheet, the report to state—

“(a) Whether he has obtained all the information and explanation which he has required:

“(b) Whether in his opinion proper books of account have been kept by the union or society and all receipts have been properly accounted for, and whether all expenditure has been properly vouched and has been properly authorised in terms of the union’s rules:

“(c) Whether in his opinion, according to the best of his information and the explanations given to him and as shown by the books and accounts of the union, the annual income and expenditure account and the annual balance sheet give a true and fair view of the financial affairs of the union.

“(8) The Registrar may at any time and from time to time, if he has reason to believe that any accounts have not been properly kept or that any money has been misappropriated, require any union or society as aforesaid to submit its accounts to an auditor, nominated by the Registrar, who is a member of the New Zealand Society of Accountants. The cost of such an audit shall be met by the union or society.

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“(9) Where under subsection eight of this section the Registrar has required the accounts of any union or society to be audited, the union or society shall, not later than seven days after receiving the auditor’s report thereon, deliver those accounts to the Registrar together with a copy of the auditor’s report thereon. 5

“(10) If any officer of any union or society as aforesaid refuses or fails without lawful justification, the proof whereof shall lie on him,—

“(a) To allow any auditor as aforesaid access to any books, papers, accounts, statements, documents, receipts, or securities in his custody or power, as required by the auditor; or 10

“(b) To give any information or explanation possessed by him as and when required; or 15

“(c) Otherwise hinders, obstructs, or delays any auditor in the performance of his duties or the exercise of his powers,—

he shall be liable on summary conviction to a fine not exceeding twenty pounds and to a further fine not exceeding five pounds for every day during which the default, refusal, or contravention continues. 20

“(11) Every person commits an offence who wilfully makes or orders to be made any false entry in or any omission from any books of account of any such union or society, and shall be liable on summary conviction to a fine not exceeding fifty pounds. 25

“(12) Every such union or society shall keep for a period of at least seven years from the date of the last entry therein all books of account of the union or society, together with all such vouchers, invoices, receipts, and other documents as are necessary to verify the entries in any such books of account. 30

“(13) If any such union or society—

“(a) Fails to appoint an auditor or auditors as required by this section; or 35

“(b) Fails to forward to the Registrar any certificate or report of the auditor or any book of account as required by this section; or

“(c) Fails to keep any book of account or document for the period specified in subsection twelve of this section,— 40

the officers of the union or society who are responsible for the default shall each be liable to a fine not exceeding one hundred pounds,

“(14) Nothing in this section shall apply to any incorporated company registered as an industrial union of employers under section fifty-nine of this Act, or to any industrial association which does not receive any subscriptions or contributions
5 from its constituent members.

“(15) For the purposes of this section, the terms ‘union’ and ‘society’ include a branch of a union or society.”

(2) Section sixty-six of the principal Act is hereby amended by adding to paragraph (f) the words “in accordance with
10 the provisions of section seventy-eight of this Act”.

5. Nomination of Conciliation Commissioner in dispute affecting combined district—Section one hundred and thirty-five of the principal Act is hereby amended by repealing subsection four, and substituting the following subsection:

15 “(4) The Minister, on the application of the Clerk, shall forthwith nominate a Conciliation Commissioner, who shall thereupon be deemed to be the Conciliation Commissioner for the combined district. At any time before the dispute is finally
20 disposed of by the Court, or before the application for reference to a Council of Conciliation has been withdrawn, the Minister may revoke the original or any subsequent nomination of a Conciliation Commissioner for the combined district and nominate another Conciliation Commissioner in substitution for the Commissioner previously nominated. The Minister
25 may also at any time nominate an additional Commissioner to assist in the hearing of the dispute.”

6. Parties entitled to be heard on variation of terms of settlement—The principal Act is hereby further amended by inserting, after section one hundred and forty-five, the
30 following section:

“145A. Where a settlement, whether total or partial, of an industrial dispute has been arrived at and duly referred to the Court, and the Court proposes to make an award containing a variation of any of the terms of the settlement, the
35 applicants and respondents shall, before the award is made, be entitled to appear before and be heard by the Court on the issue, unless the assessors who signed the memorandum of settlement have on behalf of the applicants and respondents notified to the Clerk of Awards their consent to the variation.”