

## INDUSTRIAL CONCILIATION AND ARBITRATION AMENDMENT BILL

### EXPLANATORY NOTE

*Clause 1* relates to the Short Title.

*Clause 2* amends section 16 of the principal Act to provide that the Registrar of the Court of Arbitration is to be appointed under the State Services Act 1962.

At present the Registrar is appointed by the Governor-General and the State Services Act 1962 does not apply to the office.

The clause will not apply to the present Registrar.

*Clause 3* increases the salary of the Judge of the Court of Arbitration.

The Judge's present salary is \$10,170 a year. The new rate of salary will be \$10,890 a year from 1 April 1967 to 31 March 1968 and \$11,600 a year from 1 April 1968.

*Clause 4* increases the salary of an additional Judge of the Court of Arbitration. This salary is at present \$8,970 a year, but the present holder of the office receives a salary of \$10,170 a year. The new rate of salary will be \$9,590 a year from 1 April 1967 to 31 March 1968 and \$10,200 a year from 1 April 1968, but in the case of the present holder of the office his new rate of salary will be \$10,890 a year from 1 April 1967 to 31 March 1968 and \$11,600 a year from 1 April 1968.

*Clauses 5 and 6* amend sections 29 and 30 of the principal Act by changing the term "casual vacancy" to "extraordinary vacancy" to conform to the wording of the new section 31 contained in *clause 7* of the Bill.

*Clause 7* substitutes a new section for section 31 of the principal Act relating to extraordinary vacancies in the offices of nominated members and acting nominated members of the Court of Arbitration.

At present, extraordinary vacancies are filled in the same manner as in the case of an original appointment, that is by appointment on the nominations of unions of employers or workers, as the case may require, and, if necessary, by election, under section 22 of the principal Act.

The proposed new section 31 provides for extraordinary vacancies to be filled by appointment by the Governor-General on the advice of the Minister of Labour given on the recommendation of the national organisation of employers or workers, as the case may require, that is most representative of employers or workers, as the case may be, in New Zealand.

Any person appointed to fill an extraordinary vacancy will, as at present, hold office for the residue of the term for which his predecessor would have held office if the vacancy had not occurred. However, it is now provided that if the predecessor's term of office had expired before the vacancy occurred and he held office only because a successor had not been appointed under section 22 of the principal Act, the person appointed to fill the extraordinary vacancy shall also hold office only until a successor is appointed under section 22.

*Clause 8* consolidates and amends section 175 of the principal Act which relates to exemption from union membership on conscientious grounds.

The proposed new section provides for exemption from membership of unions generally. At present exemption can be granted only in respect of the union covering the occupation in which the applicant is engaged at the time of the application.

The national organisation of workers that is most representative of workers in New Zealand will be entitled to be represented at the hearing in addition to the union covering the occupation in which the applicant is engaged.

In addition, any union that considers it has an interest in the hearing may apply for its secretary or other appointee to be present and be heard at the hearing of the application.

*Clause 9* amends section 175c of the principal Act relating to the procedure of the Conscientious Objection Committee.

Subsection (7) of that section is being repealed as its provisions will now be contained in the proposed new section 175.

Subsection (8) of section 175c is replaced by new subsections (7), (8), (9), and (10). The new subsections (7), (8), and (10) repeat the provisions of the existing subsection (8).

The new subsection (9) provides that if any person who has been granted exemption subsequently changes his occupation to one that would, but for the exemption, require him to belong to another union and that union was not represented at the hearing of the application, the union may apply for a rehearing of the application on the ground that new and material evidence is available.

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*Hon. Mr Shand*

**INDUSTRIAL CONCILIATION AND ARBITRATION  
AMENDMENT**

ANALYSIS

Title	5. Powers of removal by Governor-General
1. Short Title	6. Resignations
2. Registrar of the Court	7. Extraordinary vacancies
3. Salary and allowances of Judge	8. Exemption from union membership on conscientious grounds
4. Salary and allowances of additional Judge	9. Procedure of Conscientious Objection Committee

**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 1967, and shall be read together with and deemed part of the Industrial Conciliation and Arbitration Act 1954\* (hereinafter referred to as the principal Act).

\*1957 Reprint, Vol. 6, p. 443  
Amendments: 1958, No. 70; 1960, No. 110; 1961, No. 125; 1961, No. 126;  
1962, No. 52; 1963, No. 49; 1964, No. 131; 1965, No. 134; 1966, No. 66

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**2. Registrar of the Court**—(1) Section 16 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) There may from time to time be appointed, under the State Services Act 1962, a Registrar of the Court of Arbitration. The office of Registrar of the Court may be held either separately or in conjunction with any other office in the Public Service.” 5

(2) This section shall not apply to the person who, on the commencement of this section, held the office of Registrar of the Court; and that person shall continue to hold that office as if this section had not been enacted. 10

**3. Salary and allowances of Judge**—(1) The principal Act is hereby further amended by repealing section 19, and substituting the following section: 15

“19. (1) There shall be paid to the Judge of the Court out of the Consolidated Revenue Account, without further appropriation than this section, a salary at the following rates:

“(a) During the year ending with the thirty-first day of March, nineteen hundred and sixty-eight, at the rate of ten thousand eight hundred and ninety dollars a year: 20

“(b) On and after the first day of April, nineteen hundred and sixty-eight, at the rate of eleven thousand six hundred dollars a year. 25

“(2) There shall also be paid to the Judge of the Court such travelling allowances as shall be fixed from time to time by the Governor-General.

“(3) The salary of the Judge shall not be diminished during the continuance of his appointment.” 30

(2) The Industrial Conciliation and Arbitration Amendment Act 1966 is hereby repealed.

(3) This section shall be deemed to have come into force on the first day of April, nineteen hundred and sixty-seven. 35

**4. Salary and allowances of additional Judge**—(1) Section 20 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections:

“(3) The provisions of section 18 and subsections (2) and (3) of section 19 of this Act shall apply in respect of any person appointed as an additional Judge of the Court under subsection (2) of this section. 40

“(3A) There shall be paid to an additional Judge of the Court appointed under subsection (2) of this section, out of the Consolidated Revenue Account, without further appropriation than this section, a salary at the following rates:

5 “(a) During the year ending with the thirty-first day of March, nineteen hundred and sixty-eight, at the rate of nine thousand five hundred and ninety dollars a year:

10 “Provided that, while the person holding office as an additional Judge on the second day of June, nineteen hundred and sixty-seven, continues to hold that office his salary shall be at the rate of ten thousand eight hundred and ninety dollars a year:

15 “(b) On and after the first day of April, nineteen hundred and sixty-eight, at the rate of ten thousand two hundred dollars a year:

20 “Provided that if the person holding office as an additional Judge on the second day of June, nineteen hundred and sixty-seven, continues to hold that office on the first day of April, nineteen hundred and sixty-eight, his salary shall be at the rate of eleven thousand six hundred dollars a year on and after the last-mentioned date.”

25 (2) This section shall be deemed to have come into force on the first day of April, nineteen hundred and sixty-seven.

30 **5. Powers of removal by Governor-General**—Section 29 of the principal Act is hereby amended by omitting the words “a casual”, and substituting the words “an extraordinary”.

**6. Resignations**—Section 30 of the principal Act is hereby amended by omitting the words “a casual”, and substituting the words “an extraordinary”.

35 **7. Extraordinary vacancies**—(1) The principal Act is hereby further amended by repealing section 31 (as substituted by section 5 of the Industrial Conciliation and Arbitration Amendment Act 1960), and substituting the following section:

40 “31. (1) When the office of any nominated member or acting nominated member of the Court becomes vacant by death, resignation, or removal from office, the vacancy so created shall as soon as practicable be filled by the appointment of a person to that office by the Governor-General on the advice of the Minister given on the recommendation of

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the national organisation of employers or workers, as the case may require, that is most representative of employers or workers, as the case may be, in New Zealand.

“(2) If an acting nominated member is appointed as a nominated member an extraordinary vacancy shall be deemed to exist in the office of acting nominated member. 5

“(3) Every person appointed to fill a vacancy under this section shall hold office for the residue of the term for which his predecessor would have held office if the vacancy had not occurred: 10

“Provided that, if the term of the predecessor in office had expired before the vacancy occurred and he held office only because a successor had not been appointed under section 22 of this Act, the person appointed under this section to fill the vacancy shall also hold office only until a successor is appointed under the said section 22.” 15

(2) Section 5 of the Industrial Conciliation and Arbitration Amendment Act 1960 is hereby repealed.

**8. Exemption from union membership on conscientious grounds—**(1) The principal Act is hereby further amended by repealing section 175, and substituting the following section: 20

“175. (1) In this section, the expression ‘conscientious belief’ means any conscientious belief honestly, sincerely, and personally held, whether or not the grounds of the belief are of a religious character, and whether or not the belief is part of the doctrine of any religion, religious denomination, or sect. 25

“(2) Any person who is required to become or to remain a member of an industrial union and who objects to becoming or remaining a member on the grounds of conscientious belief may apply to the Registrar of Industrial Unions for a certificate of exemption from union membership. 30

“(3) The Registrar shall refer every such application to the Conscientious Objection Committee appointed under section 175A of this Act. 35

“(4) The Conscientious Objection Committee shall fix a time and place for the hearing of every application and shall give notice of the time and place to the applicant, to the secretary of the union to which the applicant would, but for the application, be required to belong, and to the national organisation of workers that is most representative of workers in New Zealand. The secretary of that union and the secretary of that organisation or any other person appointed in that behalf by the union or that organisation shall be entitled to be present and to be heard at the hearing of the application. 40 45

“(5) Any other union that considers it has an interest in the hearing of the application may apply to the Registrar of Industrial Unions for its secretary or any other person appointed in that behalf to also be present and be heard at the hearing; and the Registrar of Industrial Unions shall refer every such application to the Conscientious Objection Committee which shall determine, before the hearing, whether or not the union has such an interest in the hearing as would justify the secretary or other person so appointed being entitled to be present and to be heard.

“(6) Pending the determination by the Conscientious Objection Committee of any application made under this section, the applicant shall not be required to belong to any union.

“(7) If, after hearing the application, the Conscientious Objection Committee is not satisfied that the applicant’s conscientious belief is genuine, the applicant shall, in respect of the period between the date on which the application was made and the date of the Committee’s determination, be liable to pay to the union to which he would normally have been required to belong such fees and subscriptions as he would have had to pay if he had been a member of the union for that period.

“(8) If, after hearing the application, the Conscientious Objection Committee is satisfied that the applicant’s conscientious belief is genuine, the Committee shall grant the applicant exemption from union membership and shall determine the period during which the exemption shall remain in force.

“(9) On making a determination under subsection (7) or subsection (8) of this section the Conscientious Objection Committee shall give notification of the determination to—

“(a) The applicant;

“(b) The Registrar of Industrial Unions;

“(c) Every union whose secretary or appointee was entitled to be present and to be heard at the hearing of the application; and

“(d) The national organisation of workers that is most representative of workers in New Zealand, if it was represented at the hearing.

“(10) Where the Conscientious Objection Committee has granted exemption from union membership to an applicant, the applicant shall pay to the credit of the Consolidated Revenue Account an amount equal to the subscription, for the period of the exemption, fixed by the union to which the applicant would, but for the exemption, be

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required to belong; and thereupon the Registrar or any duly authorised officer of the Public Service acting on his behalf shall issue to the applicant a certificate of exemption. Every such certificate shall specify the period during which the exemption shall remain in force. 5

“(11) The Registrar or any duly authorised officer of the Public Service acting on his behalf may from time to time, in his discretion, extend the period during which any certificate of exemption shall remain in force or issue further certificates or vary the certificate without reference to the Conscientious Objection Committee, but shall not vary any certificate in such a manner that will change in any material respect the nature of the Committee’s determination. Before the extension of a certificate or the issue of a further certificate the holder of it shall pay to the credit of the Consolidated Revenue Account an amount equal to the subscription, for the period of the extension or the period covered by the further certificate, fixed by the union to which he would, but for the exemption, be required to belong. 10 15

“(12) Every certificate of exemption issued under this section shall be deemed to have come into force on the date on which application was first made, and every extension of a certificate and every further certificate shall come into force on a date to be specified in the certificate. 20

“(13) If a certificate of exemption has not been extended or a further certificate issued on or before the date on which the exemption has ceased to remain in force the exemption shall lapse: 25

“Provided that the Registrar may, within three years after the date on which the exemption has so lapsed, issue a new certificate of exemption in the same terms as the original certificate without reference to the Conscientious Objection Committee if he is satisfied that the original circumstances in relation to which exemption was granted remain substantially unchanged. 30 35

“(14) A certificate of exemption issued to any person under this section shall, while it remains in force, permit the employment or the continuation of the employment of that person in any position or occupation as if he were a member of the union to which he would, but for the exemption, be required to belong.” 40

(2) Every exemption from union membership that has been granted before the commencement of this section shall be deemed to have been granted under section 175 of the principal Act (as substituted by subsection (1) of this section) and the provisions of that section (as so substituted) shall apply accordingly. 45



(3) The following enactments are hereby repealed:

- (a) Section 2 of the Industrial Conciliation and Arbitration Amendment Act 1958:
- 5 (b) Subsections (1) and (2) of section 3 of the Industrial Conciliation and Arbitration Amendment Act 1961:
- (c) Section 9 of the Industrial Conciliation and Arbitration Amendment Act 1962.

**9. Procedure of Conscientious Objection Committee—**

10 (1) Section 175c of the principal Act (as inserted by section 3 of the Industrial Conciliation and Arbitration Amendment Act 1958) is hereby amended by repealing subsections (7) and (8), and substituting the following subsections:

15 “(7) Subject to subsections (8), (9), and (10) of this section, every such determination shall, for the purposes of this Part of this Act, be final and conclusive.

“ (8) If the Registrar considers that any determination may have been procured by fraud or was made in error or that new and material evidence is available, he may apply to the Conscientious Objection Committee to have the application  
20 reheard.

“ (9) If any person who has been granted exemption from union membership subsequently changes his occupation to one that would, but for the exemption, require him to belong to a different union from that to which he would have been re-  
25 quired to belong if his application had been declined, and that different union was not represented at the hearing of the application for exemption or at any subsequent rehearing, that union may apply to the Registrar for a rehearing or further rehearing of the application on the ground that  
30 new and material evidence is available; and the Registrar shall refer every such application to the Committee.

“ (10) On receiving an application under subsection (8) or subsection (9) of this section the Committee may in its  
35 discretion rehear the application and may cancel, vary, or confirm its previous determination.”

(2) Section 3 of the Industrial Conciliation and Arbitration Amendment Act 1961 is hereby amended by repealing subsection (4).