

INDUSTRIAL LAW REFORM BILL

EXPLANATORY NOTE

THIS Bill amends the Industrial Relations Act 1973, the Waterfront Industry Act 1976, the Aircrew Industrial Tribunal Act 1971, and the Agricultural Workers Act 1977.

Clause 1 relates to the Short Title.

PART I

AMENDMENTS TO INDUSTRIAL RELATIONS ACT 1973

Clause 2 provides that this Part of this Bill is to form part of the Industrial Relations Act 1973.

Clause 3 removes the entitlement to remuneration by way of fees that has until now been enjoyed by every person appointed to a conciliation council as an assessor. The entitlement of such an assessor to travelling allowances and expenses is not affected.

Clause 4 inserts new sections 101CA, 101CB, and 101CC into the principal Act and re-enacts section 101D with consequential amendments.

Under section 175A of the principal Act (as enacted in 1978) a union of workers that seeks the insertion of an unqualified preference provision in any award or collective agreement must obtain, at least every 3 years, the authority of its members by ballot. The new section 175A (as substituted by *clause 7* of this Bill) does away with that requirement.

The new *section 101CA* (as inserted by this clause) provides that not less than a specified number of the financial members of a union of workers who will, if an unqualified preference provision is inserted or continues to be inserted in any award or collective agreement (including an award or collective agreement to be made in substitution for any existing award or collective agreement) be bound to become or remain members of that union, may apply to the Registrar—

- (a) For a ballot of the adult workers who will, if an unqualified preference provision is inserted or continues to be inserted in the award or collective agreement, be bound to become or remain members of that union; or
- (b) For a direction that, in relation to the insertion of an unqualified preference provision in the award or collective agreement, the procedure prescribed by the provision, included or deemed to be included by *section 175A (1)* of the Act in the rules of the union, be applied.

The specified number is 50 or a number equal to 10 percent of the number of financial members of the union, whichever is the less.

The identity of the applicants is not to be disclosed to the union but the applicants are required to produce to the Registrar of Industrial Unions evidence that they are financial members of the union.

An application made under *section 101CA* cannot be withdrawn.

An application under *section 101CA* cannot be granted if the members of the union have been balloted on the same issue within the preceding 3 years.

The new *section 101CB* enables the Registrar to require any union of workers to furnish within 7 days a statement of the number of financial members of the union as at the date of the making to him of any application under the new *section 101CA (1)*. If the union does not comply, the Registrar may treat the number of members who made the application as if it were the "specified number" for the purposes of the new *section 101CA (1)*.

The new *section 101CC* deals with the failure of a union to supply the list required for the purpose of a ballot under *section 101CA*.

The new *section 101CC* is based on section 101C (as enacted by section 16 of the Industrial Relations Amendment Act (No. 2) 1976).

The new *section 101D* is a re-enactment (with consequential amendments) of the existing section 101D.

Clauses 5 and 6 effect consequential amendments.

Clause 7 substitutes a new *section 175A* in the principal Act. The new section and the new provision (which the section requires to be included in the rules of every union of workers) reflects the changes made by *clause 4* of this Bill.

Clause 8 revokes the provision, which section 175A (as enacted in 1978) requires to be included in the rules of every union of workers.

Clause 9 effects a consequential repeal.

PART II

AMENDMENTS TO WATERFRONT INDUSTRY ACT 1976

Clause 10 provides that this Part of this Bill is to form part of the Waterfront Industry Act 1976.

Clause 11 enables the Waterfront Industry Tribunal to determine, in appropriate cases, that a principal order shall have a duration of less than 1 year. Such orders fix the pay and conditions of work of persons employed within the waterfront industry.

At present section 15 (5) of the principal Act requires that every principal order must remain in force for at least 1 year.

The amendment made by this clause will confer on the Waterfront Industry Tribunal a power that is equivalent to that given, in relation to awards and collective agreements, to the Arbitration Court by section 92 (2) of the Industrial Relations Act 1973.

Clause 12 removes the entitlement to remuneration by way of fees that has until now been enjoyed by—

- (a) The employers' representatives and the workers' representatives on each Conciliation Council; and
- (b) The members who represent the employers and the members who represent the workers on each Port Conciliation Committee.

The entitlement of those representatives and members to travelling allowances and expenses is not affected.

Clause 13 effects consequential repeals.

PART III

AMENDMENT TO AIRCREW INDUSTRIAL TRIBUNAL ACT 1971

Clause 14 provides that this Part of this Bill is to form part of the Aircrew Industrial Tribunal Act 1971.

Clause 15 removes the entitlement to remuneration by way of fees that has until now been enjoyed by nominated members of conciliation councils appointed under the Aircrew Industrial Tribunal Act 1971. The entitlement of those members to travelling allowances and expenses is not affected.

PART IV

AMENDMENT TO AGRICULTURAL WORKERS ACT 1977

Clause 16 provides that this Part of this Bill is to form part of the Agricultural Workers Act 1977.

Clause 17 removes the entitlement to remuneration by way of fees that has until now been enjoyed by nominated members of conciliation councils appointed under the Agricultural Workers Act 1977. The entitlement of those members to travelling allowances and expenses is not affected.

Hon. Mr Bolger

INDUSTRIAL LAW REFORM

ANALYSIS

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	PART II
	AMENDMENTS TO WATERFRONT INDUSTRY ACT 1976
	10. This Part to be read with Waterfront Industry Act 1976
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	15. Remuneration and travelling allowances
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	16. This Part to be read with Agricultural Workers Act 1977
	17. Conciliation

A BILL INTITULED

An Act to reform the law relating to industrial relations by amending the Industrial Relations Act 1973, the Waterfront Industry Act 1976, the Aircrew Industrial Tribunal Act 1971, and the Agricultural Workers Act 1977

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

1. Short Title—This Act may be cited as the Industrial Law Reform Act 1982.

PART I

AMENDMENTS TO INDUSTRIAL RELATIONS ACT 1973

2. This Part to be read with Industrial Relations Act 1973—This Part of this Act shall be read together with and deemed part of the Industrial Relations Act 1973* (in this Part of this Act referred to as the principal Act).

*Reprinted 1977, Vol. 4, p. 3405

Amendments: 1978, No. 40; 1979, No. 141; 1980, No. 116; 1981, No. 131

3. Remuneration and travelling allowances of assessors—Section 73 (1) of the principal Act is hereby amended 10 by omitting the words “remuneration by way of fees or allowances and”.

4. New sections substituted—The principal Act is hereby amended by repealing section 101D (as inserted by section 16 of the Industrial Relations Amendment Act (No. 2) 1976), 15 and substituting the following sections:

“101CA. **Power of members to apply for ballot or special meetings**—(1) Not less than the specified number of the financial members of a union of workers who will, if an unqualified preference provision is inserted or continues to be 20 inserted in any award or collective agreement (including an award or collective agreement to be made in substitution for any existing award or collective agreement) be bound to become or remain members of that union, may apply to the Registrar— 25

“(a) For a ballot of the adult workers who will, if an unqualified preference provision is inserted or continues to be inserted in the award or collective agreement, be bound to become or remain members of that union; or 30

“(b) For a direction that, in relation to the insertion of an unqualified preference provision in the award or collective agreement, the procedure prescribed by the provision, included or deemed to be included by section 175A (1) of this Act in the rules of the 35 union, be applied.

“(2) Every application under subsection (1) of this section shall be in the prescribed form.

“(3) Every application under subsection (1) of this section shall be accompanied by a statutory declaration by each applicant, which declaration—

- 5 “(a) Shall show—
- “(i) The full name and full address of the declarant; and
 - “(ii) The full name and full address of the declarant’s employer; and
 - 10 “(iii) The work performed by the declarant for the employer; and
 - “(iv) The activity carried on by the declarant’s employer; and
- “(b) Shall show, or be accompanied by evidence, that the declarant is a financial member of the union.
- 15 “(4) If it appears to the Registrar—
- “(a) That the application is in order; and
 - “(b) That he is not prevented by subsection (7) of this section from granting the application—
- he shall decide to grant the application.
- 20 “(5) Where the Registrar makes a decision under subsection (4) of this section, he shall inform the union of workers to which the applicants belong of his decision but he shall not divulge the identity of the applicants.
- “(6) An application under subsection (1) of this section
- 25 may not be withdrawn.
- “(7) An application under subsection (1) of this section shall not be granted in respect of any award or collective agreement if, during the 3 years preceding the date on which the application is received by the Registrar,—
- 30 “(a) A certificate showing the result of an earlier ballot conducted pursuant to section 100 or section 101A of this Act or to this section in respect of that award or collective agreement or the award or agreement it superseded was issued by the Registrar; or
- 35 “(b) A special meeting or the last of a series of special meetings of members of that union of workers was conducted (under the rule included or deemed to be included in the rules of that union of workers by section 175A (1) of this Act (as enacted by section 9
- 40 (1) of the Industrial Relations Amendment Act 1978 or by section 7 (1) of the Industrial Law Reform Act 1982)) in respect of that award or agreement or the award or agreement it superseded.

“(8) For the purposes of subsection (1) of this section, the term ‘specified number’ means 50, or a number equal to 10 percent of the number of financial members of the union, whichever is the less.

“(9) Section 101B of this Act shall apply for the purposes of this section as if for the words ‘section 101A’ wherever they appear in subsections (1), (8), (9), and (13), there were substituted, in each case, the words ‘section 101CA’.

“101CB. **Statement of number of financial members may be required**—(1) The Registrar may at any time require any union of workers to furnish within 7 days a statement of the number of financial members of the union as at the date of the making to him of any application under section 101CA (1) of this Act.

“(2) If default is made in complying with any requirement under this section in relation to an application under section 101CA (1) of this Act, the Registrar may treat the number of members who made the application under that section as if it were the ‘specified number’ for the purposes of that section.

“(3) Every person who knowingly and wilfully makes or orders to be made any false entry in or any omission from any statement prepared pursuant to this section commits an offence and shall be liable on summary conviction to a fine not exceeding \$100 for each such offence.

“101CC. **Failure by union to supply list required for purposes of ballot under section 101CA**—(1) Where any union fails to comply with subsection (3) of section 101B of this Act (as applied by section 101CA (9) of this Act), the Registrar or designated person shall give written particulars of that failure to the Court which shall, if it is satisfied, after giving the union an opportunity to be heard, that there has been a wilful and substantial failure on the part of the union to comply with that subsection, and notwithstanding anything in sections 99 to 101 of this Act,—

“(a) Refuse to insert an unqualified preference provision in the relevant award or collective agreement (or in any award or collective agreement made in substitution for the relevant award or collective agreement) until that failure is remedied; and

“(b) If an unqualified preference provision is already inserted in the relevant award or collective agreement, amend that award or collective agreement by deleting that provision from it.

“(2) Paragraph (b) of subsection (1) of this section shall apply notwithstanding the provisions of section 97 of this Act.

“101D. **Implementation of ballot**—(1) Notwithstanding anything in sections 99 to 101 of this Act, where not less than 5 50 percent of the valid votes recorded in any ballot conducted pursuant to section 101A or section 101CA of this Act are in favour of the insertion in any award or collective agreement of an unqualified preference provision, the Court shall insert or shall continue to insert such a provision in that award or 10 collective agreement (and in any award or collective agreement made in substitution for that award or collective agreement), at the time of its making or registration or by way of amendment, as the case may require, without requiring further evidence as to the matters specified in paragraph (b) 15 of section 99 of this Act, unless that percentage of valid votes in favour of the insertion of an unqualified preference provision is not attained in any subsequent ballot conducted pursuant to section 101A or section 101CA of this Act.

“(2) Notwithstanding anything in sections 99 and 100 of 20 this Act, where less than 50 percent of the valid votes recorded in any ballot conducted pursuant to section 101A or section 101CA of this Act are in favour of the insertion in any award or collective agreement of an unqualified preference provision,—

25 “(a) The Court shall not insert such a provision in that award or collective agreement (or in any award or collective agreement made in substitution for that award or collective agreement) unless that 30 percentage of valid votes in favour of the insertion of an unqualified preference provision is attained or exceeded in any subsequent ballot conducted pursuant to section 101A or section 101CA of this Act; and

35 “(b) Where such a provision is already inserted in that award or collective agreement at the time of the delivery to the Court of the copy of the certificate required to be delivered to the Court pursuant to section 101B (10) of this Act, that provision shall cease to have effect on the day following the 40 delivery of that certificate and the Court shall amend the provision or collective agreement by deleting that provision from it.

“(3) This section shall apply notwithstanding the provisions of section 97 of this Act.”

5. Offences in relation to ballots—Section 101E of the principal Act (as inserted by section 16 of the Industrial Relations Amendment Act (No. 2) 1976) is hereby amended by inserting, after the expression “section 101A” wherever it appears, the expression “or section 101CA”. 5

6. Applications for inquiries—Section 101F (as inserted by section 7 of the Industrial Relations Amendment Act 1978) is hereby amended by inserting, after the expression “section 101A” wherever it appears, the expression “or section 101CA”. 10

7. Obligatory rule concerning unqualified preference provisions—The principal Act is hereby amended by repealing section 175A (as inserted by section 9 (1) of the Industrial Relations Amendment Act 1978), and substituting the following section: 15

“175A. (1) The rules of every union of workers shall include, or, in the case of the rules of a union of workers that is registered at the commencement of this section, shall be deemed to include, the following provision (which shall not be amended by the union and which shall prevail over any other 20 provision of the rules):

“ (1) Where the union is directed by the Registrar of Industrial Unions to apply, in relation to the insertion of an unqualified preference provision in any award or collective agreement, the procedure prescribed by this rule, the 25 committee of management of the union shall ensure—

“ (a) That written notice of the intention to seek, or agree to, the insertion of such a provision in the award or collective agreement is given or posted to each financial member of the union; and 30

“ (b) The intention is discussed at a special meeting, or at a series of special meetings, of financial members of the union, called for the purpose; and

“ (c) A secret ballot or secret ballots of the financial members of the union present at the special 35 meeting or special meetings (being a ballot or ballots conducted under the supervision of the Registrar of Industrial Unions or by some person, being an officer of the Department of Labour, designated by the Registrar of Industrial Unions 40 in that behalf) are held for the purpose of

determining whether a majority of the financial members of the union present at the special meeting or special meetings is in favour of the insertion of an unqualified preference provision in the award or collective agreement.

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“(2) For the purposes of this rule the term ‘special meeting’ includes any meeting of the financial members of the union residing or working in any particular locality, being a meeting called expressly for the purpose of considering whether an unqualified preference provision should be included in any award or collective agreement.

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“(3) For the purposes of subclause (1) (c) of this rule, the view of the majority of members of the union present at the special meeting or special meetings of the union shall be represented by the majority of the valid votes cast in the secret ballot or secret ballots held at that meeting or those meetings.’

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“(2) The provision included, or deemed to be included, by subsection (1) of this section in the rules of any union of workers shall be included in or supplied with every copy of those rules delivered or supplied pursuant to section 180 of this Act.”

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(2) Notwithstanding the provisions of subsection (2) of section 175A of the principal Act (as inserted by subsection (1) of this section), where the provision set out in subsection (1) of section 175A of the principal Act is deemed to be included in any rules in force at the commencement of this section, it shall not be necessary to include that provision in or to supply that provision with any copy of those rules delivered or supplied pursuant to section 180 of the principal Act before the 1st day of January 1983.

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8. Revocation of existing obligatory rule concerning unqualified preference—The provision included, or deemed to be included, by subsection (1) of section 175A of the principal Act (as enacted by section 9 (1) of the Industrial Relations Amendment Act 1978) in the rules of every union of workers is hereby consequentially revoked.

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9. Repeal—Section 9 of the Industrial Relations Amendment Act 1978 is hereby consequentially repealed.

PART II

AMENDMENTS TO WATERFRONT INDUSTRY ACT 1976

10. This Part to be read with Waterfront Industry Act 1976—This Part of this Act shall be read together with and deemed part of the Waterfront Industry Act 1976* (in this Part of this Act referred to as the principal Act). 5

*1976, No. 72

Amendments: 1977, No. 150; 1980, No. 26

11. Principal orders as to pay and conditions of work—Section 15 of the principal Act is hereby amended by inserting, after subsection (5), the following subsection: 10
 “(5A) Notwithstanding subsection (5) of this section, the Tribunal may determine, on such grounds as it thinks fit, that a principal order shall continue in force for a specified period of less than 1 year from the date applicable under that subsection.”

12. Remuneration, travelling expenses, and administrative expenses—The principal Act is hereby amended by repealing section 54 (as substituted by section 8 of the Waterfront Industry Amendment Act 1980), and substituting the following section: 15

“54. (1) There shall be paid to— 20

“(a) The members and acting members of the Commission; and

“(b) The appointed members of the Tribunal; and

“(c) The Chairman and Deputy Chairman of each Conciliation Council; and 25

“(d) The Chairman and Deputy Chairman of each Port Conciliation Committee; and

“(e) The members of each Port Amenities Committee,— remuneration by way of fees, salaries, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if each of those persons were members of a statutory Board within the meaning of that Act. 30

“(2) There shall be paid to— 35

“(a) The employers’ representatives and the workers’ representatives on each Conciliation Council; and

“(b) The members who represent the employers and the members who represent the workers on each Port Conciliation Committee,— 40

travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if each of those persons were members of a statutory Board within the meaning of
5 that Act.

“(3) Notwithstanding section 53 (4) of this Act, the General Manager shall be paid such salary as is from time to time fixed by the Higher Salaries Commission and such allowances as are from time to time fixed by the Minister.

10 “(4) The other officers and employees of the Commission shall be paid such salaries and allowances as are from time to time fixed by the Minister.

“(5) All such payments and the administrative expenses of the Commission shall be paid out of the funds of the
15 Commission.

“(6) Subject to appropriation by Parliament, grants may from time to time be made to the Commission from the Consolidated Account for—

20 “(a) The remuneration and travelling allowances and expenses of the persons specified in paragraphs (b) to (d) of subsection (1) of this section; and

“(b) The travelling allowances and expenses of the persons specified in paragraphs (a) and (b) of subsection (2) of this section.”

25 **13. Repeal**—Section 8 of the Waterfront Industry Amendment Act 1980 is hereby consequentially repealed.

PART III

AMENDMENT TO AIRCREW INDUSTRIAL TRIBUNAL ACT 1971

30 **14. This Part to be read with Aircrew Industrial Tribunal Act 1971**—This Part of this Act shall be read together with and deemed part of the Aircrew Industrial Tribunal Act 1971* (in this Part of this Act referred to as the principal Act).

*1971, No. 5

Amendments: 1977, No. 107; 1978, No. 42; 1979, No. 32

35 **15. Remuneration and travelling allowances**—Section 27 of the principal Act is hereby amended by omitting the words “remuneration by way of fees, salary, or allowances and”.

PART IV

AMENDMENT TO AGRICULTURAL WORKERS ACT 1977

16. This Part to be read with Agricultural Workers Act 1977—This Part of this Act shall be read together with and deemed part of the Agricultural Workers Act 1977* (in this Part of this Act referred to as the principal Act). 5

*1977, No. 43

Amendments: 1977, No. 106; 1979, No. 73; 1980, No. 78; 1981, No. 8

17. Conciliation—Section 30 (5) of the principal Act is hereby amended by omitting the words “remuneration by way of fees or allowances and”.

INDUSTRIAL LAW REFORM BILL

EXPLANATORY NOTE

THIS Bill amends the Industrial Relations Act 1973, the Waterfront Industry Act 1976, the Aircrew Industrial Tribunal Act 1971, and the Agricultural Workers Act 1977.

Clause 1 relates to the Short Title.

PART I

AMENDMENTS TO INDUSTRIAL RELATIONS ACT 1973

Clause 2 provides that this Part of this Bill is to form part of the Industrial Relations Act 1973.

Clause 3 removes the entitlement to remuneration by way of fees that has until now been enjoyed by every person appointed to a conciliation council as an assessor. The entitlement of such an assessor to travelling allowances and expenses is not affected.

Clause 4 inserts new sections 101CA, 101CB, and 101CC into the principal Act and re-enacts section 101D with consequential amendments.

Under section 175A of the principal Act (as enacted in 1978) a union of workers that seeks the insertion of an unqualified preference provision in any award or collective agreement must obtain, at least every 3 years, the authority of its members by ballot. The new section 175A (as substituted by *clause 7* of this Bill) does away with that requirement.

The new *section 101CA* (as inserted by this clause) provides that not less than a specified number of the financial members of a union of workers who will, if an unqualified preference provision is inserted or continues to be inserted in any award or collective agreement (including an award or collective agreement to be made in substitution for any existing award or collective agreement) be bound to become or remain members of that union, may apply to the Registrar—

- (a) For a ballot of the adult workers who will, if an unqualified preference provision is inserted or continues to be inserted in the award or collective agreement, be bound to become or remain members of that union; or
- (b) For a direction that, in relation to the insertion of an unqualified preference provision in the award or collective agreement, the procedure prescribed by the provision, included or deemed to be included by *section 175A (1)* of the Act in the rules of the union, be applied.

The specified number is 50 or a number equal to 10 percent of the number of financial members of the union, whichever is the less.

The identity of the applicants is not to be disclosed to the union but the applicants are required to produce to the Registrar of Industrial Unions evidence that they are financial members of the union.

An application made under *section 101CA* cannot be withdrawn.

An application under *section 101CA* cannot be granted if the members of the union have been balloted on the same issue within the preceding 3 years.

The new *section 101CB* enables the Registrar to require any union of workers to furnish within 7 days a statement of the number of financial members of the union as at the date of the making to him of any application under the new *section 101CA (1)*. If the union does not comply, the Registrar may treat the number of members who made the application as if it were the "specified number" for the purposes of the new *section 101CA (1)*.

The new *section 101CC* deals with the failure of a union to supply the list required for the purpose of a ballot under *section 101CA*.

The new *section 101CC* is based on section 101C (as enacted by section 16 of the Industrial Relations Amendment Act (No. 2) 1976).

The new *section 101D* is a re-enactment (with consequential amendments) of the existing section 101D.

Clauses 5 and 6 effect consequential amendments.

Clause 7 substitutes a new *section 175A* in the principal Act. The new section and the new provision (which the section requires to be included in the rules of every union of workers) reflects the changes made by *clause 4* of this Bill.

Clause 8 revokes the provision, which section 175A (as enacted in 1978) requires to be included in the rules of every union of workers.

Clause 9 effects a consequential repeal.

PART II

AMENDMENTS TO WATERFRONT INDUSTRY ACT 1976

Clause 10 provides that this Part of this Bill is to form part of the Waterfront Industry Act 1976.

Clause 11 enables the Waterfront Industry Tribunal to determine, in appropriate cases, that a principal order shall have a duration of less than 1 year. Such orders fix the pay and conditions of work of persons employed within the waterfront industry.

At present section 15 (5) of the principal Act requires that every principal order must remain in force for at least 1 year.

The amendment made by this clause will confer on the Waterfront Industry Tribunal a power that is equivalent to that given, in relation to awards and collective agreements, to the Arbitration Court by section 92 (2) of the Industrial Relations Act 1973.

Clause 12 removes the entitlement to remuneration by way of fees that has until now been enjoyed by—

- (a) The employers' representatives and the workers' representatives on each Conciliation Council; and
- (b) The members who represent the employers and the members who represent the workers on each Port Conciliation Committee.

The entitlement of those representatives and members to travelling allowances and expenses is not affected.

Clause 13 effects consequential repeals.

PART III

AMENDMENT TO AIRCREW INDUSTRIAL TRIBUNAL ACT 1971

Clause 14 provides that this Part of this Bill is to form part of the Aircrew Industrial Tribunal Act 1971.

Clause 15 removes the entitlement to remuneration by way of fees that has until now been enjoyed by nominated members of conciliation councils appointed under the Aircrew Industrial Tribunal Act 1971. The entitlement of those members to travelling allowances and expenses is not affected.

PART IV

AMENDMENT TO AGRICULTURAL WORKERS ACT 1977

Clause 16 provides that this Part of this Bill is to form part of the Agricultural Workers Act 1977.

Clause 17 removes the entitlement to remuneration by way of fees that has until now been enjoyed by nominated members of conciliation councils appointed under the Agricultural Workers Act 1977. The entitlement of those members to travelling allowances and expenses is not affected.

Hon. Mr Bolger

INDUSTRIAL LAW REFORM

ANALYSIS

Title	
1. Short Title	9. Repeal
	PART II
	AMENDMENTS TO WATERFRONT INDUSTRY ACT 1976
	10. This Part to be read with Waterfront Industry Act 1976
	11. Principal orders as to pay and conditions of work
	12. Remuneration, travelling expenses, and administrative expenses
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	14. This Part to be read with Aircrew Industrial Tribunal Act 1971
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	16. This Part to be read with Agricultural Workers Act 1977
	17. Conciliation

A BILL INTITULED

An Act to reform the law relating to industrial relations by amending the Industrial Relations Act 1973, the Waterfront Industry Act 1976, the Aircrew Industrial Tribunal Act 1971, and the Agricultural Workers Act 1977

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

1. Short Title—This Act may be cited as the Industrial Law Reform Act 1982.

PART I

AMENDMENTS TO INDUSTRIAL RELATIONS ACT 1973

2. This Part to be read with Industrial Relations Act 1973—This Part of this Act shall be read together with and deemed part of the Industrial Relations Act 1973* (in this Part of this Act referred to as the principal Act).

*Reprinted 1977, Vol. 4, p. 3405

Amendments: 1978, No. 40; 1979, No. 141; 1980, No. 116; 1981, No. 131

3. Remuneration and travelling allowances of assessors—Section 73 (1) of the principal Act is hereby amended by omitting the words “remuneration by way of fees or allowances and”.

4. New sections substituted—The principal Act is hereby amended by repealing section 101D (as inserted by section 16 of the Industrial Relations Amendment Act (No. 2) 1976), and substituting the following sections:

“101CA. **Power of members to apply for ballot or special meetings**—(1) Not less than the specified number of the financial members of a union of workers who will, if an unqualified preference provision is inserted or continues to be inserted in any award or collective agreement (including an award or collective agreement to be made in substitution for any existing award or collective agreement) be bound to become or remain members of that union, may apply to the Registrar—

“(a) For a ballot of the adult workers who will, if an unqualified preference provision is inserted or continues to be inserted in the award or collective agreement, be bound to become or remain members of that union; or

“(b) For a direction that, in relation to the insertion of an unqualified preference provision in the award or collective agreement, the procedure prescribed by the provision, included or deemed to be included by section 175A (1) of this Act in the rules of the union, be applied.

“(2) Every application under subsection (1) of this section shall be in the prescribed form.

“(3) Every application under subsection (1) of this section shall be accompanied by a statutory declaration by each applicant, which declaration—

“(a) Shall show—

5 “(i) The full name and full address of the declarant; and

“(ii) The full name and full address of the declarant’s employer; and

10 “(iii) The work performed by the declarant for the employer; and

“(iv) The activity carried on by the declarant’s employer; and

“(b) Shall show, or be accompanied by evidence, that the declarant is a financial member of the union.

15 “(4) If it appears to the Registrar—

“(a) That the application is in order; and

“(b) That he is not prevented by subsection (7) of this section from granting the application—

he shall decide to grant the application.

20 “(5) Where the Registrar makes a decision under subsection (4) of this section, he shall inform the union of workers to which the applicants belong of his decision but he shall not divulge the identity of the applicants.

“(6) An application under subsection (1) of this section 25 may not be withdrawn.

“(7) An application under subsection (1) of this section shall not be granted in respect of any award or collective agreement if, during the 3 years preceding the date on which the application is received by the Registrar,—

30 “(a) A certificate showing the result of an earlier ballot conducted pursuant to section 100 or section 101A of this Act or to this section in respect of that award or collective agreement or the award or agreement it superseded was issued by the Registrar; or

35 “(b) A special meeting or the last of a series of special meetings of members of that union of workers was conducted (under the rule included or deemed to be included in the rules of that union of workers by section 175A (1) of this Act (as enacted by section 9 40 (1) of the Industrial Relations Amendment Act 1978 or by section 7 (1) of the Industrial Law Reform Act 1982)) in respect of that award or agreement or the award or agreement it superseded.

“(8) For the purposes of subsection (1) of this section, the term ‘specified number’ means 50, or a number equal to 10 percent of the number of financial members of the union, whichever is the less.

“(9) Section 101B of this Act shall apply for the purposes of 5 this section as if for the words ‘section 101A’ wherever they appear in subsections (1), (8), (9), and (13), there were substituted, in each case, the words ‘section 101CA’.

“101CB. **Statement of number of financial members may be required**—(1) The Registrar may at any time 10 require any union of workers to furnish within 7 days a statement of the number of financial members of the union as at the date of the making to him of any application under section 101CA (1) of this Act.

“(2) If default is made in complying with any requirement 15 under this section in relation to an application under section 101CA (1) of this Act, the Registrar may treat the number of members who made the application under that section as if it were the ‘specified number’ for the purposes of that section.

“(3) Every person who knowingly and wilfully makes or 20 orders to be made any false entry in or any omission from any statement prepared pursuant to this section commits an offence and shall be liable on summary conviction to a fine not exceeding \$100 for each such offence.

“101CC. **Failure by union to supply list required for 25 purposes of ballot under section 101CA**—(1) Where any union fails to comply with subsection (3) of section 101B of this Act (as applied by section 101CA (9) of this Act), the Registrar or designated person shall give written particulars of that failure to the Court which shall, if it is satisfied, after 30 giving the union an opportunity to be heard, that there has been a wilful and substantial failure on the part of the union to comply with that subsection, and notwithstanding anything in sections 99 to 101 of this Act,—

“(a) Refuse to insert an unqualified preference provision in 35 the relevant award or collective agreement (or in any award or collective agreement made in substitution for the relevant award or collective agreement) until that failure is remedied; and

“(b) If an unqualified preference provision is already 40 inserted in the relevant award or collective agreement, amend that award or collective agreement by deleting that provision from it.

“(2) Paragraph (b) of subsection (1) of this section shall apply notwithstanding the provisions of section 97 of this Act.

“101D. **Implementation of ballot**—(1) Notwithstanding anything in sections 99 to 101 of this Act, where not less than 5 50 percent of the valid votes recorded in any ballot conducted pursuant to section 101A or section 101CA of this Act are in favour of the insertion in any award or collective agreement of an unqualified preference provision, the Court shall insert or shall continue to insert such a provision in that award or 10 collective agreement (and in any award or collective agreement made in substitution for that award or collective agreement), at the time of its making or registration or by way of amendment, as the case may require, without requiring further evidence as to the matters specified in paragraph (b) 15 of section 99 of this Act, unless that percentage of valid votes in favour of the insertion of an unqualified preference provision is not attained in any subsequent ballot conducted pursuant to section 101A or section 101CA of this Act.

“(2) Notwithstanding anything in sections 99 and 100 of 20 this Act, where less than 50 percent of the valid votes recorded in any ballot conducted pursuant to section 101A or section 101CA of this Act are in favour of the insertion in any award or collective agreement of an unqualified preference provision,—

25 “(a) The Court shall not insert such a provision in that award or collective agreement (or in any award or collective agreement made in substitution for that award or collective agreement) unless that 30 percentage of valid votes in favour of the insertion of an unqualified preference provision is attained or exceeded in any subsequent ballot conducted pursuant to section 101A or section 101CA of this Act; and

35 “(b) Where such a provision is already inserted in that award or collective agreement at the time of the delivery to the Court of the copy of the certificate required to be delivered to the Court pursuant to section 101B (10) of this Act, that provision shall 40 cease to have effect on the day following the delivery of that certificate and the Court shall amend the provision or collective agreement by deleting that provision from it.

“(3) This section shall apply notwithstanding the provisions of section 97 of this Act.”

5. Offences in relation to ballots—Section 101E of the principal Act (as inserted by section 16 of the Industrial Relations Amendment Act (No. 2) 1976) is hereby amended by inserting, after the expression “section 101A” wherever it appears, the expression “or section 101CA”.

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6. Applications for inquiries—Section 101F (as inserted by section 7 of the Industrial Relations Amendment Act 1978) is hereby amended by inserting, after the expression “section 101A” wherever it appears, the expression “or section 101CA”.

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7. Obligatory rule concerning unqualified preference provisions—The principal Act is hereby amended by repealing section 175A (as inserted by section 9 (1) of the Industrial Relations Amendment Act 1978), and substituting the following section:

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“175A. (1) The rules of every union of workers shall include, or, in the case of the rules of a union of workers that is registered at the commencement of this section, shall be deemed to include, the following provision (which shall not be amended by the union and which shall prevail over any other provision of the rules):

“(1) Where the union is directed by the Registrar of Industrial Unions to apply, in relation to the insertion of an unqualified preference provision in any award or collective agreement, the procedure prescribed by this rule, the committee of management of the union shall ensure—

“(a) That written notice of the intention to seek, or agree to, the insertion of such a provision in the award or collective agreement is given or posted to each financial member of the union; and

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“(b) The intention is discussed at a special meeting, or at a series of special meetings, of financial members of the union, called for the purpose; and

“(c) A secret ballot or secret ballots of the financial members of the union present at the special meeting or special meetings (being a ballot or ballots conducted under the supervision of the Registrar of Industrial Unions or by some person, being an officer of the Department of Labour, designated by the Registrar of Industrial Unions in that behalf) are held for the purpose of

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determining whether a majority of the financial members of the union present at the special meeting or special meetings is in favour of the insertion of an unqualified preference provision in the award or collective agreement.

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“(2) For the purposes of this rule the term ‘special meeting’ includes any meeting of the financial members of the union residing or working in any particular locality, being a meeting called expressly for the purpose of considering whether an unqualified preference provision should be included in any award or collective agreement.

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“(3) For the purposes of subclause (1) (c) of this rule, the view of the majority of members of the union present at the special meeting or special meetings of the union shall be represented by the majority of the valid votes cast in the secret ballot or secret ballots held at that meeting or those meetings.’

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“(2) The provision included, or deemed to be included, by subsection (1) of this section in the rules of any union of workers shall be included in or supplied with every copy of those rules delivered or supplied pursuant to section 180 of this Act.”

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(2) Notwithstanding the provisions of subsection (2) of section 175A of the principal Act (as inserted by subsection (1) of this section), where the provision set out in subsection (1) of section 175A of the principal Act is deemed to be included in any rules in force at the commencement of this section, it shall not be necessary to include that provision in or to supply that provision with any copy of those rules delivered or supplied pursuant to section 180 of the principal Act before the 1st day of January 1983.

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8. Revocation of existing obligatory rule concerning unqualified preference—The provision included, or deemed to be included, by subsection (1) of section 175A of the principal Act (as enacted by section 9 (1) of the Industrial Relations Amendment Act 1978) in the rules of every union of workers is hereby consequentially revoked.

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9. Repeal—Section 9 of the Industrial Relations Amendment Act 1978 is hereby consequentially repealed.

PART II

AMENDMENTS TO WATERFRONT INDUSTRY ACT 1976

10. This Part to be read with Waterfront Industry Act 1976—This Part of this Act shall be read together with and deemed part of the Waterfront Industry Act 1976* (in this Part of this Act referred to as the principal Act). 5

*1976, No. 72

Amendments: 1977, No. 150; 1980, No. 26

11. Principal orders as to pay and conditions of work—Section 15 of the principal Act is hereby amended by inserting, after subsection (5), the following subsection:

“(5A) Notwithstanding subsection (5) of this section, the Tribunal may determine, on such grounds as it thinks fit, that a principal order shall continue in force for a specified period of less than 1 year from the date applicable under that subsection.” 10

12. Remuneration, travelling expenses, and administrative expenses—The principal Act is hereby amended by repealing section 54 (as substituted by section 8 of the Waterfront Industry Amendment Act 1980), and substituting the following section: 15

“54. (1) There shall be paid to— 20

“(a) The members and acting members of the Commission; and

“(b) The appointed members of the Tribunal; and

“(c) The Chairman and Deputy Chairman of each Conciliation Council; and 25

“(d) The Chairman and Deputy Chairman of each Port Conciliation Committee; and

“(e) The members of each Port Amenities Committee,— remuneration by way of fees, salaries, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if each of those persons were members of a statutory Board within the meaning of that Act. 30

“(2) There shall be paid to— 35

“(a) The employers’ representatives and the workers’ representatives on each Conciliation Council; and

“(b) The members who represent the employers and the members who represent the workers on each Port Conciliation Committee,— 40

travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if each of those persons were members of a statutory Board within the meaning of 5 that Act.

“(3) Notwithstanding section 53 (4) of this Act, the General Manager shall be paid such salary as is from time to time fixed by the Higher Salaries Commission and such allowances as are from time to time fixed by the Minister.

10 “(4) The other officers and employees of the Commission shall be paid such salaries and allowances as are from time to time fixed by the Minister.

“(5) All such payments and the administrative expenses of the Commission shall be paid out of the funds of the 15 Commission.

“(6) Subject to appropriation by Parliament, grants may from time to time be made to the Commission from the Consolidated Account for—

20 “(a) The remuneration and travelling allowances and expenses of the persons specified in paragraphs (b) to (d) of subsection (1) of this section; and

“(b) The travelling allowances and expenses of the persons specified in paragraphs (a) and (b) of subsection (2) of this section.”

25 **13. Repeal**—Section 8 of the Waterfront Industry Amendment Act 1980 is hereby consequentially repealed.

PART III

AMENDMENT TO AIRCREW INDUSTRIAL TRIBUNAL ACT 1971

30 **14. This Part to be read with Aircrew Industrial Tribunal Act 1971**—This Part of this Act shall be read together with and deemed part of the Aircrew Industrial Tribunal Act 1971* (in this Part of this Act referred to as the principal Act).

*1971, No. 5

Amendments: 1977, No. 107; 1978, No. 42; 1979, No. 32

35 **15. Remuneration and travelling allowances**—Section 27 of the principal Act is hereby amended by omitting the words “remuneration by way of fees, salary, or allowances and”.

PART IV

AMENDMENT TO AGRICULTURAL WORKERS ACT 1977

16. This Part to be read with Agricultural Workers Act 1977—This Part of this Act shall be read together with and deemed part of the Agricultural Workers Act 1977* (in this 5 Part of this Act referred to as the principal Act).

*1977, No. 43

Amendments: 1977, No. 106; 1979, No. 73; 1980, No. 78; 1981, No. 8

17. Conciliation—Section 30 (5) of the principal Act is hereby amended by omitting the words “remuneration by way of fees or allowances and”.