

SHEARERS BILL

EXPLANATORY NOTE

THIS Bill consolidates and amends the Shearers' Accommodation Act 1919.

The Bill is wider in its scope than the existing legislation as it deals not only with shearers who are accommodated by their employer but also with shearers who are not accommodated by their employer.

Clause 1 relates to the Short Title and commencement. This Act is to come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council.

Clause 2 defines the terms that are used throughout the Bill. The term "shearer" has been redefined so that it does not cover persons who are permanently employed on the premises where the shearing shed is situated. The definition of the term "shearing shed" has been redefined in slightly wider terms.

Clause 3 is new. It provides that the Act shall bind the Crown.

Clause 4 provides that the Act is to be administered in the Department of Labour.

Clause 5 provides for the appointment of Inspectors for the purposes of this Act.

Clause 6 sets out the powers of Inspectors. These powers are wider than those given to Inspectors under the present Act. They are now similar to the powers granted to Inspectors under the Factories Act 1946.

Clause 7 deals with the issue of certificates of appointment to Inspectors and with the use of such certificates.

Clause 8 makes it an offence wilfully to obstruct or interfere with any Inspector in the lawful exercise of any of his duties or powers under this Bill.

Clause 9 is largely a new provision. *Subclause (1)* imposes a duty on every employer to provide the prescribed amenities for all shearers employed by him. The amenities to be provided are to be prescribed by regulations made under *clause 15* of this Bill.

Subclause (2) imposes a duty on every employer to provide sufficient and suitable accommodation for all shearers who are both employed and accommodated by him where those shearers number five or more. Minimum standards of accommodation may be prescribed by regulations made under *clause 15* of this Bill.

Subclause (3) provides that no accommodation shall be sufficient or suitable for the purposes of this Act unless it conforms to or is superior to the prescribed requirements.

Clause 10 is new. It provides for the approval of plans and specifications by an Inspector before shearers' accommodation is erected.

Clause 11 provides that an Inspector may dispense with or modify any of the prescribed requirements relating to accommodation or amenities. A similar provision in respect of accommodation is contained in the present Act.

Clause 12 enables an Inspector to give a notice to an employer requiring him to remedy any default in his obligations under this Bill. A similar provision is contained in the existing Act. The clause in this Bill now provides for the case where the notice requires the making of alterations to a building and the employer is not the owner of the building.

Clause 13 provides that it is an offence for any shearer negligently to cause or suffer damage to any accommodation provided under this Bill. A similar provision is contained in the existing Act.

Clause 14 provides that shearers must keep the rooms and surroundings occupied by them clean and free of all rubbish. The employer must ensure that the accommodation and the surroundings of the accommodation are clean and free of all rubbish before occupation by shearers.

Clause 15 authorises the making of certain regulations.

Clause 16 prescribes the general penalty for offences. The penalty is to be a fine not exceeding £50, as opposed to a fine of £25 under the existing legislation.

Clause 17 makes it clear that, except as expressly provided in this Bill, nothing in this Bill limits or affects in any way the provisions of any other Act.

Clause 18 repeals the Shearers' Accommodation Act 1919.

Hon. Mr Shand

SHEARERS

ANALYSIS

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A BILL INTITULED

An Act to require employers to provide suitable accommodation and amenities for shearers employed by them

5 **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 and commencement—(1) This Act may be cited as the Shearers Act 1962.

10 (2) This Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council.

2. Interpretation—In this Act, unless the context otherwise requires,—

15 “Employer” includes every person having the control or superintendence of any shearing shed, and also includes, in any case where shearing is performed by a contractor, the person who let the contract:

“Inspector” means an Inspector appointed under this Act:

“Shearer” includes all persons engaged in or about a shearing shed other than persons who are permanently employed on the premises where the shearing shed is situated: 5

“Shearing shed” means any building or place used for the shearing of sheep or for any operation connected with shearing; and includes all buildings and premises connected therewith or adjacent thereto where shearers are accommodated at any time. 10

Cf. 1919, No. 50, s. 2

3. Act to bind the Crown—This Act shall bind the Crown.

4. Act to be administered in the Department of Labour—

(1) This Act shall be administered in the Department of Labour. 15

(2) The First Schedule to the Labour Department Act 1954 is hereby amended by omitting the reference to the Shearers’ Accommodation Act 1919, and substituting a reference to this Act. 20

5. Inspectors—(1) There may from time to time be appointed under the Public Service Act 1912 such Inspectors as may be required for the purposes of this Act.

(2) Every Inspector of Factories appointed under the Factories Act 1946 shall be deemed to have been appointed to be an Inspector under this Act. 25

Cf. 1919, No. 50, s. 3

6. Powers of Inspectors—(1) Every Inspector may—

(a) At any reasonable hour enter, inspect, and examine any premises when he has reasonable cause to believe that those premises are or will be used as a shearing shed: 30

Provided that an Inspector shall not exercise the right of entry conferred by this paragraph unless accompanied by or with the knowledge of the occupier of the premises, or the employer of the persons engaged in or about those premises, or the representative or agent of the occupier or employer: 35

(b) Call to his aid any Inspector appointed pursuant to the Health Act 1956 or any other person whom he may think competent to assist him in his inspection and examination: 40

(c) Make such examination and inquiry as he deems necessary to ascertain whether the provisions of this Act have been or are being complied with:

5 (d) Examine with respect to matters under this Act, either alone or in the presence of any other person, as he thinks fit, every person whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a shearing shed, and require any such person to make and sign
10 a statutory declaration setting out his knowledge of the matters on which he is so examined.

(2) No person shall, on an examination or inquiry by an Inspector under this section, be required to answer any question tending to incriminate himself.

15 (3) Except for the purposes of this Act and the exercise of his functions under this Act, an Inspector shall not disclose to any person any information which he acquires in the exercise of those functions.

Cf. 1919, No. 50, s. 4 (1)

20 **7. Certificate of appointment as Inspector**—(1) Every Inspector shall be furnished with a certificate of his appointment in the prescribed form, and on applying for admission to any premises or on making inquiries of any person, he shall, if required, produce the certificate.

25 (2) Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or personates the Inspector named in any certificate, or falsely pretends to be an Inspector, commits an offence and is liable on summary conviction to imprisonment for a
30 term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both.

Cf. 1919, No. 50, s. 4 (2)

8. Obstruction of Inspector—Every person commits an offence against this Act who wilfully obstructs or interferes
35 with any Inspector in the lawful exercise of any of his duties or powers under this Act.

Cf. 1919, No. 50, s. 4 (3)

9. Accommodation and amenities to be provided for shearers—(1) It shall be the duty of every employer to provide for all shearers employed by him such amenities, being
40 any articles or facilities which are likely to contribute to the health, comfort, or welfare of shearers, as are prescribed under section 15 of this Act.

(2) Subject to section 11 of this Act, it shall also be the duty of every employer to provide sufficient and suitable accommodation for all shearers who are both employed and accommodated by him where those shearers number five or more.

(3) No accommodation shall be sufficient and suitable for the purposes of this Act unless it conforms to or is superior to the prescribed requirements. 5

Cf. 1919, No. 50, ss. 5, 6

10. Plans of accommodation—(1) Every employer who accommodates or who proposes to accommodate five or more shearers shall, before erecting any building or part of a building which is to be used for the accommodation of shearers, submit to an Inspector for his approval a copy of the plans and specifications for the proposed work. 10

(2) The Inspector shall approve the plans and specifications if he is satisfied that they indicate that the building will conform to or be superior to the prescribed requirements. If he is not satisfied as aforesaid he shall either approve them subject to such modifications as he thinks necessary to make the building conform to the prescribed requirements, or refuse to approve them. 15 20

(3) No employer who accommodates or who proposes to accommodate five or more shearers shall erect any building or part of a building which is to be used for the accommodation of shearers except in accordance with plans and specifications approved under this section. 25

(4) The Inspector shall be entitled to retain the copy of the plans and specifications submitted to him under this section.

(5) Every employer who fails to comply with the provisions of subsection (1) or subsection (3) of this section commits an offence against this Act. 30

11. Inspector may modify accommodation requirements in special cases—(1) Any Inspector may, by notice in writing to the employer, dispense with or modify any of the prescribed requirements relating to accommodation or amenities in any of the following cases, namely: 35

(a) In the case of accommodation, where the accommodation was already provided before the coming into operation of this Act; 40

- (b) Where he is satisfied that, owing to special circumstances, it is or has been impracticable to provide the accommodation or amenities required by this Act to be provided; or
- 5 (c) Where he is satisfied that any such requirement is unnecessary or unreasonable.
- (2) Any notice under this section may be at any time revoked by the Inspector by further notice in writing.

Cf. 1919, No. 50, s. 7

- 10 **12. Notice to employer making default**—(1) If in any case the prescribed amenities are not provided or no provision is made for the accommodation of shearers, or if the amenities provided or the provision for accommodation made is deemed by an Inspector to be inadequate or not in accordance with
- 15 the requirements prescribed under this Act, the Inspector may give notice in writing to the employer to provide amenities or accommodation in accordance with the said requirements within a reasonable time to be specified in the notice.
- 20 (2) Any such notice may be given by delivering it to the employer personally, or by leaving it at his usual or last known place of residence or business or by posting it by registered letter to that address. A notice so posted shall be deemed to have been given at the time when the registered letter would, in the ordinary course of post, be delivered.
- 25 (3) If the employer considers the requirements stipulated in any such notice to be unreasonable or impracticable he may, within twenty-one days after the date of the service thereof, file in the office of the Magistrate's Court nearest to the place where the accommodation is required to be provided, or, with the consent of the Inspector, in the office of
- 30 any other Magistrate's Court, a notice of appeal setting out with reasonable particularity the grounds of the appeal. A copy of the notice of appeal shall be served on the Inspector:
- 35 *Provided that if the Inspector, acting on the advice of a Medical Officer of Health under the Health Act 1956, states in his notice that the requirements are urgently needed for the protection of the health of any shearer, there shall be no right of appeal.*
- 40 (4) On the filing of any notice of appeal the Magistrate shall fix a time and date for the hearing of the appeal, and the Registrar shall notify the applicant and the Inspector of the time so fixed.

(5) On the hearing of the appeal the Magistrate may by order confirm, modify, or cancel the notice as he thinks fit, and every such order shall be final and binding on both parties.

(6) If the employer within the time specified in the notice, or, in the case of an appeal, within the time specified in the order of the Magistrate, fails to comply with any such notice or order he commits an offence against this Act. 5

(7) In any case where an Inspector has, by notice to an employer, required him to do anything or carry out any work which in the opinion of the employer cannot be carried out without making alterations to a building, the employer if he is not the owner of the building, may, within twenty-one days after the notice is served on him, serve a copy thereof on the owner or on the agent of the owner. 10

(8) If the employer duly serves a copy of the notice on the owner or his agent as aforesaid he shall be entitled to recover in any Court of competent jurisdiction from the owner, as a debt, such part of the cost of making the alterations as in the opinion of the Court is just and equitable having regard to all the circumstances of the case. 15 20

(9) The owner or his agent shall have the right at any time within twenty-one days after the copy of the notice is served on him as provided in subsection (7) of this section to appeal to a Magistrate against the notice and the provisions of subsections (3) to (5) of this section shall apply accordingly. 25

Cf. 1919, No. 50, s. 8

13. Damage by shearers—(1) If any shearer negligently causes or suffers any damage to be done to any accommodation provided under this Act he commits an offence against this Act. 30

(2) Any person convicted under this section may be ordered to pay, by way of compensation to the person whose property is damaged, such sum of money as the Court ascertains to be reasonable. 35

Cf. 1919, No. 50, s. 9

14. Accommodation to be kept clean—(1) The shearers employed at any shearing shed shall keep the rooms and surroundings occupied by them clean and free of all rubbish and, if they fail to do so, the employer may employ some other person to do the work, and may deduct the cost of such work from any money due to or accruing due to the shearers occupying such rooms. 40

(2) The employer shall ensure that the accommodation and the surroundings of the accommodation are clean and free of all rubbish before occupation by shearers.

Cf. 1919, No. 50, s. 10

5 **15. Regulations**—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

10 (a) Prescribing the amenities required to be provided for shearers under this Act, and minimum standards for such amenities:

(b) Prescribing minimum standards for the design, construction, and situation of accommodation required to be provided for shearers under this Act:

15 (c) The cleansing, disinfection, fumigation, and maintenance of accommodation provided for shearers:

(d) Prescribing the forms required for the purposes of this Act:

20 (e) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Any such regulations may be general in their application, or may be limited to particular localities or premises, and may vary for different times of the year.

25 (3) All regulations made under this Act shall be laid before Parliament.

Cf. 1919, No. 50, s. 11

30 **16. General penalty for offences**—Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section shall be liable on summary conviction to a fine not exceeding fifty pounds.

Cf. 1919, No. 50, s. 12

35 **17. Other Acts not affected**—Except so far as may be expressly provided in this Act, nothing in this Act shall be so construed as to limit or affect in any way the provisions of any other Act.

18. Repeal—The Shearers' Accommodation Act 1919 is hereby repealed.