

STABILISATION OF REMUNERATION BILL

EXPLANATORY NOTE

This Bill gives effect to the recent announcement by the Minister of Labour relating to the legislation necessary to provide greater stability of remuneration for employment.

The principal provisions of the Bill are as follows:

- (a) Rates of remuneration under new awards, agreements, and other similar instruments are to be fixed for a minimum period of 12 months, unless in special cases the Remuneration Authority established by the Bill consents to a shorter term:
- (b) Rates of remuneration under new awards, agreements, and other similar instruments may not exceed by more than 7 percent the rates as at 1 January 1971 unless the Remuneration Authority consents. That percentage may be altered by Order in Council. This provision is suspended until it is brought into force by Order in Council:
- (c) Provision is made for the issue of cost of living orders (subject to certain offsetting provisions) providing for increases in rates of remuneration where the Consumers' Price Index for the quarters ending 30 June 1971 and 31 December 1971 shows an increase in prices:
- (d) Employing authorities and tribunals having jurisdiction to fix remuneration of State employees and employees of certain other public bodies may not make any determination or order increasing any rate of remuneration as at 1 January 1971, except with the consent of the Remuneration Authority:
- (e) Special provisions relating to the application of half-yearly and other surveys in the State services and to regradings of groups and to adjustments of the remuneration of occupational classes or groups appear in Part IV.

Clause 1 relates to the Short Title and commencement. Part III, restricting increases in rates of remuneration under instruments (as defined in *clause 2*), will not come into force until a date to be fixed by Order in Council. Subject to this, the Act will be deemed to have come into force on 1 January 1971.

Clause 2 is the interpretation clause. The principal definitions in this clause are—

- (a) "Base rate"—This is defined as the rate of remuneration payable as at 1 January 1971. In certain cases, where negotiations for a new award or an amendment of an existing award had commenced before 15 February 1971, the rate fixed by the new award or the amended rate will be the base rate:
- (b) "Instrument"—This is defined as any award or industrial agreement, any agreement under section 8 of the Labour Disputes Investigation Act 1913, any collective or ruling rates agreement, any agreement

made between a worker or an employer or between a group of workers and an employer or a group or body of employers, or any order fixing rates of remuneration made by any tribunal:

- (c) "Remuneration"—This is defined as salary or wages; and includes time and piece wages and overtime and bonus and other special payments, allowances, fees, commission, and other emoluments, and directors' remuneration.

Subclause (2) provides that a reduction in hours of work or an increase in holiday or leave entitlement without, in either case, a corresponding reduction in remuneration is to be treated as a proportionate increase in remuneration.

PART I

THE REMUNERATION AUTHORITY

Clause 3 establishes the Remuneration Authority. It is to comprise not more than 5 members, who are to be appointed by the Minister and will hold office at the pleasure of the Minister. Before appointing any member, the Minister is to have regard to any representations received from the New Zealand Federation of Labour Incorporated, the General Council of the New Zealand Employers' Federation Incorporated, or the Combined State Service Organisations.

Clause 4 defines the procedure for meetings of the Authority.

Clause 5 provides that every member of the Authority and every person engaged or employed in connection with the work of the Authority must maintain the secrecy of all matters that come to his knowledge when carrying out his functions or duties, and must not communicate them to any person except for the purpose of carrying the Act into effect.

Clause 6 provides for the payment of remuneration and travelling expenses to members of the Authority.

Clause 7 defines the functions and powers of the Authority. Its functions are—

- (a) To receive and determine applications under *clause 12 (3)* for its consent to higher rates of remuneration in certain cases where negotiations had commenced before 15 February 1971.
- (b) To receive and determine applications under *clause 14* for its consent to provisions in instruments fixing a rate of remuneration for a period of less than 12 months:
- (c) To receive and determine applications under *clause 18* for its consent to a rate of remuneration in excess of the limits specified in *clause 17*:
- (d) To receive and determine applications under *clause 20* for its consent to the making of determinations or orders fixing rates of remuneration for State employees (as defined in *clause 19*) that exceed the base rate:
- (e) To receive and determine applications under *clause 21* for its recommendation to the making of Orders in Council fixing rates of remuneration for State employees that exceed the base rate:
- (f) To receive and determine applications under *clause 24* for its consent to regradings of groups or occupational classes in the State services having effect before 1 January 1972:
- (g) To make cost of living orders under *clause 15*:

- (h) Other functions relating to the stabilisation of remuneration for employment specified by the Minister.

The Authority is to have the powers of a Commission of Inquiry. It will not be bound by the strict rules as to the admissibility of evidence.

Clause 8 provides that the Authority may, with the approval of the Minister, delegate any of its functions or powers to any of its members, to any officer in the service of the Crown attached to the Authority, or to any Conciliation Commissioner.

Clause 9 provides that the Department of Labour is to furnish necessary secretarial, recording, and clerical services to the Authority.

Clause 10 declares that the decisions of the Authority are final and, except on the ground of lack of jurisdiction, may not be questioned in any Court.

Clause 11 provides that the Authority must comply with the general policy of the Government in relation to the stabilisation of remuneration for employment, and must comply with any general directions given to it in writing by the Minister pursuant to the policy of the Government in relation thereto.

Those general directions are to be published in the *Gazette*.

PART II

DURATION OF PROVISIONS FIXING RATES OF REMUNERATION

Clause 12: Subclause (1) provides that every rate of remuneration fixed by any instrument that is in force on 1 January 1971 shall continue in force for the period fixed by the instrument.

Subclauses (2) to (5) make provision for the up-dating of awards where negotiations between the parties for an alteration of any rate of remuneration or for an alteration of the date of expiration and the making of a new award had commenced before 15 February 1971. Those provisions are as follows:

- (a) The Court of Arbitration may exercise its powers under section 162 of the Industrial Conciliation and Arbitration Act 1954 or under section 6 of the Industrial Conciliation and Arbitration Amendment Act 1970 to alter any rate of remuneration fixed by the award or to alter the date of expiration of the award and make a new award.
- (b) The Court cannot, where it alters any rate of remuneration, increase the rate by more than 15 percent over the rate payable as at 1 January 1970, or where it makes a new award, fix any rate that exceeds by more than 15 percent the rate payable as at that date, unless the Remuneration Authority has consented.
- (c) If the expiry date of the award has been altered, any new award must expire on the date on which the superseded award would have expired if the alteration had not been made.

Subclause (6) provides that while this clause continues in force, section 162 of the Industrial Conciliation and Arbitration Act 1954 (so far as it relates to alterations in rates of remuneration or in the date of expiry of awards) and section 6 of the 1970 Amendment Act are suspended.

Clause 13 provides that no new instrument (which, under the definition of "new instrument" in *clause 2*, includes a variation of an existing instrument) shall fix any rate of remuneration for a period of less than 12 months from the date of the making of the instrument.

Subclause (2) provides that it is an offence to become a party to any instrument made in breach of that provision.

Clause 14 provides that where all the parties to a proposed new instrument have agreed to a rate of remuneration continuing in force for less than 12 months, the Remuneration Authority may consent to that shorter period if it is satisfied that in all the circumstances a shorter period is justified.

Clause 15 provides for the making of cost of living orders based on the movement of prices as shown by the Consumers' Price Index.

A cost of living order must be issued to take effect not later than 28 days after receipt by the Authority of a copy of the Consumers' Price Index for the quarters ending 30 June 1971 and 31 December 1971.

On the making of a cost of living order, all base rates of remuneration fixed under awards or industrial agreements or agreements under section 8 of the Labour Disputes Investigation Act 1913 are deemed to have been increased by the percentage specified in the order. That percentage must be the same as the percentage by which prices have increased in the period 1 January 1971 to 30 June 1971 or, as the case may be, 1 January 1971 to 31 December 1971, as shown by the Consumers' Price Index.

Where any base rate of remuneration has been increased before the effective date of a cost of living order, there is to be no further increase, if the percentage of that increase is equal to or more than the percentage fixed by the order. If the percentage of that increase was less than the percentage fixed by the order, the percentage fixed by the order is to be reduced by the percentage of the earlier increase. While this provision remains in force, the General Wage Orders Act 1969 is deemed to be suspended.

For the purpose of these provisions "remuneration" is defined in *subclause (6)* as salary or wages, time and piece wages, and allowances directly related to salary or wages.

Clause 16 makes it permissible for rates of remuneration fixed by instruments other than awards, industrial agreements, and agreements under section 8 of the Labour Disputes Investigation Act 1913 to be increased following the making of a cost of living order, up to the percentage fixed by that order. The same reductions are to be made from that percentage as are provided by *clause 15* where earlier increases have been granted.

In this clause "remuneration" has the same meaning as in *clause 15*.

PART III

RESTRICTIONS ON INCREASING RATES OF REMUNERATION

Clause 17 provides that except with the consent of the Remuneration Authority given under *clause 18*, no new instrument (which, as mentioned earlier, includes a variation of an existing instrument) shall fix any rate of remuneration that exceeds the base rate by a percentage greater than the "specified percentage". That term is defined in *subclause (6)* as 7 percent, but that percentage may be altered by Order in Council.

Except with the consent of the Authority or as provided in *clauses 15 and 16* (relating to the payment of increases following a cost of living order), no employer may pay to any worker remuneration at a rate which exceeds the base rate by a percentage greater than the specified percentage. This does not apply in certain cases specified in the proviso to *subclause (2)*.

It is an offence to become a party to any instrument made in breach of these provisions, and no tribunal may fix any rate of remuneration at a rate that exceeds the base rate by a percentage greater than the specified percentage, unless the Authority has consented to that rate of remuneration.

Clause 18 provides where all the parties to a proposed new instrument have agreed on a rate of remuneration that exceeds the base rate by a percentage greater than the specified percentage, the Authority may—

- (a) Consent to the proposed rate or a lower rate. That consent may be given subject to a condition that the whole or part of the percentage excess shall come into force on a later date fixed by the Authority.
- (b) Consent to part of the percentage excess and defer for not more than 6 months consideration of the balance.
- (c) Defer consideration of the application for not more than 6 months.

PART IV

REMUNERATION OF STATE EMPLOYEES AND EMPLOYEES OF CERTAIN PUBLIC BODIES

Clause 19 defines the term “employing authority” and “State employee” for the purposes of this Part.

Clause 20 provides that except with the consent of the Remuneration Authority no employing authority or tribunal shall issue any determination or make any order fixing any rate of remuneration of State employees which exceeds the base rate.

This provision does not apply where the employing authority has approved the rate of remuneration before 15 February 1971, but a formal determination had not been issued.

Certain exceptions to this provision appear in *subclause (4)*.

Clause 21 applies to those State employees whose rates of remuneration are fixed by Order in Council. No such order may be made fixing any rate that exceeds the base rate except on the recommendation of the Remuneration Authority to the appropriate Minister.

Clause 22 relates to the half-yearly reviews of remuneration under the State Services Remuneration and Conditions of Employment Act 1969.

Subclause (1) provides that any adjustment of pay scales in the State services that is required to be made following the half-yearly survey conducted by the Department of Labour as at April of 1971 or following the ruling rate surveys of remuneration conducted as at February and April of 1971 are to be made without restriction as to amount.

Subclause (2) provides that—

- (a) There is to be no adjustment of pay scales in the State services following the half-yearly survey conducted by the Department of Labour as at October of 1971:
- (b) Any adjustment of pay scales following the half-yearly survey as at April of 1972 is to reflect the movement in pay scales outside the State services since April of 1971, and is to come into force on 15 October 1971. In making that adjustment, such deductions are to be made as are necessary on account of the application to the State services of cost of living orders made before April of 1972.

Clause 23 provides that cost of living orders made under *clause 15* are to apply to State employees. The deductions to be made under the proviso to *clause 15 (3)* are to be made in this case also.

Clause 24 provides that any regrading of any group of positions in any of the State services and any adjustment arising from a review of remuneration of any occupational class or group in any of the State services made after the commencement of the Act shall not be made so as to take effect before 1 January 1972, subject to the following exceptions:

- (a) Where the Remuneration Authority is satisfied that negotiations for any such regrading or adjustment had progressed to a substantial degree before 15 April 1971, the Authority may consent to the regrading or adjustment taking effect on a date earlier than 1 January 1972 agreed upon by the parties:
- (b) The Authority may in any special case consent to any such regrading or adjustment taking effect on a date earlier than 1 January 1972 fixed by the Authority.

PART V

MISCELLANEOUS PROVISIONS

Clause 25 authorises the making of regulations.

Clause 26 prescribes offences against the Act and penalties for those offences.

It will be an offence against the Act for any person to do any act in contravention of or fail to comply with any provision of the Act or any regulations under the Act, or to do any act with the intention of defeating any provision of the Act or of any regulations under the Act.

The maximum penalty for an offence will be—

- (a) In the case of an offence committed by an individual, a fine of \$100:
- (b) In the case of an offence committed by a body corporate, a fine not exceeding \$1,000.

Clause 27 provides that if there is any conflict between the provisions of the Bill and the provisions of any other Act, the provisions of the Bill are to prevail.

A BILL INTITULED

An Act to make provision with respect to the stabilisation of remuneration for employment, and for matters incidental thereto

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

1. Short Title and commencement—(1) This Act may be cited as the Stabilisation of Remuneration Act 1971.

(2) Part III of this Act shall come into force on a date to be fixed by the Governor-General by Order in Council. 10

(3) Except as provided in subsection (2) of this section, this Act shall be deemed to have come into force on the 1st day of January 1971:

Provided that no person shall be deemed to have committed an offence by reason of any act or omission in contravention of any provision of this Act before the date of the passing of this Act. 15

2. Interpretation—(1) In this Act, unless the context otherwise requires,— 20

“Base rate”, in relation to any remuneration payable to any worker or group of workers, means the rate of remuneration payable to the worker or, as the case may be, to workers of that group as at the 1st day of January 1971: 25

Provided that—

(a) Where under section 12 of this Act the provisions of any award relating to rates of remuneration have been amended, the term “base rate”, in relation to the remuneration fixed by that award, means the rate of remuneration as at the date on which the amended provisions come into force: 30

(b) Where under the said section 12 an alteration has been made in the date of the expiration of the currency of any award, the term “base rate” means the rate of remuneration fixed in the new award that supersedes the expired award: 35

“Existing instrument” means an instrument that is not a new instrument:

“Instrument” means—

- 5 (a) Any award or industrial agreement:
(b) Any agreement under section 8 of the Labour Disputes Investigation Act 1913:
(c) Any collective or ruling rates agreement, whether in writing or not, made between a workers’ union and an employer or body of employers:
10 (d) Any agreement, whether in writing or not, made between a worker and an employer or between a group of workers and an employer or a group or body of employers:
15 (e) Any order fixing rates of remuneration made by any tribunal constituted under any enactment (not being a tribunal to which section 20 of this Act applies):

“Minister” means the Minister of Labour:

“New instrument” means—

- 20 (a) For the purposes of Part II of this Act, an instrument made after the commencement of this section. Where under section 12 of this Act the date of the expiration of the currency of any award has been amended, any new award that supersedes the expired award shall for the purposes of this definition,
25 be deemed to have been made before the commencement of this section:
(b) For the purposes of Part III of this Act, an instrument made after the commencement of that
30 Part;—
and includes in each case an instrument (not being an amendment of an award made under section 12 of this Act) made after the commencement of this section, or, as the case may be, the commencement of
35 Part III of this Act, varying any rate of remuneration fixed under any existing instrument:

“Remuneration” means salary or wages; and includes—

- (a) Time and piece wages and overtime and bonus and other special payments:
40 (b) Allowances, fees, commission, and every other emolument, whether in one sum or several sums, and whether paid in money or not:

(c) The remuneration of directors of companies, who for the purposes of this Act shall be deemed to be employed by the companies of which they are directors:

“Remuneration Authority” or “Authority” means the Remuneration Authority established by section 3 of this Act: 5

“Worker” has the same meaning as in the Industrial Conciliation and Arbitration Act 1954; but, except for the purposes of the definition of the term “base rate” in this subsection, does not include a person to whom Part IV of this Act applies: 10

“Workers’ union”, or “union”, means an industrial association or union of workers under the Industrial Conciliation and Arbitration Act 1954, or a branch of any such union, or a society of workers that is subject to the Labour Disputes Investigation Act 1913: 15

“Award”, “employer”, and “industrial agreement” have the same meanings as in the Industrial Conciliation and Arbitration Act 1954. 20

(2) Without limiting the circumstances in which any rate of remuneration shall be treated as having been increased, any rate of remuneration shall for the purposes of this Act be deemed to have been increased proportionately in the following cases: 25

(a) Where there has been any reduction in the hours or other period of work on which that remuneration is based without a corresponding reduction in the rate of remuneration: 30

(b) Where there has been any increase in holiday or leave entitlement without a corresponding reduction in the rate of remuneration.

PART I

THE REMUNERATION AUTHORITY

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3. Remuneration Authority—(1) There is hereby established an authority to be called the Remuneration Authority.

(2) The Authority shall consist of not more than 5 members, to be appointed by the Minister and to hold office during the pleasure of the Minister. One of the members shall be appointed as the Chairman of the Authority. 40

(3) Before appointing any member of the Authority, the Minister shall have regard to any representations with respect thereto received by him from the New Zealand Federation of Labour Incorporated, the General Council of the New Zealand Employers' Federation Incorporated, or the Combined State Service Organisations.

(4) The powers of the Authority shall not be affected by any vacancy in its membership.

4. Meetings of Authority—(1) At any meeting of the Authority, 3 members shall form a quorum.

(2) The Chairman shall preside at every meeting of the Authority at which he is present.

(3) In the absence of the Chairman from any meeting, the members present shall elect one of their number to preside at that meeting.

(4) A decision of a majority of the members present at any meeting shall be the decision of the Authority, and, in the event of an equality of votes, the member presiding shall have a casting vote as well as a deliberative vote.

(5) Subject to the provisions of this Act, the Authority may regulate its procedure in such manner as it thinks fit.

5. Members and officers to maintain secrecy—Every member of the Remuneration Authority and every person engaged or employed in connection with the work of the Authority shall maintain and aid in maintaining the secrecy of all matters which come to his knowledge when carrying out his functions or duties under this Act, and shall not communicate any such matters to any person except for the purpose of carrying this Act into effect.

6. Remuneration and travelling allowances—(1) The Remuneration Authority is hereby declared to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There shall be paid out of money appropriated by Parliament for the purpose to the members of the Authority remuneration by way of fees, salary, 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.

- 7. Functions and powers of Authority—**(1) The functions of the Remuneration Authority shall be—
- (a) To receive and determine applications under subsection (3) of section 12 of this Act for its consent to an amendment of an award or the making of a new award fixing any rate of remuneration in excess of the rate specified in that subsection: 5
 - (b) To receive and determine applications under section 14 of this Act for its consent to any variation of an existing instrument or to any new instrument providing that any rate of remuneration fixed by that instrument shall continue in force for less than 12 months: 10
 - (c) To receive and determine applications under section 18 of this Act for its consent to any instrument or any variation of any instrument fixing any rate of remuneration that exceeds the base rate by more than the specified percentage: 15
 - (d) To receive and determine applications under section 20 of this Act for its consent to the issuing of a determination or the making of an order fixing any rate of remuneration for State employees prescribing any rate of remuneration that exceeds the base rate: 20
 - (e) To consider and determine applications under section 21 of this Act for its recommendation to the making of Orders in Council fixing any rate of remuneration for State employees that exceeds the base rate: 25
 - (f) To receive and determine applications under section 24 of this Act for its consent to a regrading taking effect before the 1st day of January 1972: 30
 - (g) To make cost of living orders under section 15 of this Act: 35
 - (h) Such other functions relating to the stabilisation of remuneration for employment as the Minister specifies from time to time by notice in writing to the Authority.
- (2) Any consent given by the Authority under any provision of this Act may relate to any particular case or to any class or description of cases. 40

(3) For the purpose of carrying out its functions under this Act, the Authority shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and the provisions of that Act, except sections 2, 4A, 11, and 12, shall
5 apply accordingly.

(4) The Authority may receive in evidence any statement, document, information, or matter that may in its opinion assist it to deal effectually with the matter before it, whether
10 or not the same would otherwise be admissible in a Court of law.

8. Delegation of functions and powers—(1) The Remuneration Authority may from time to time, with the approval of the Minister, delegate to any of its members, or to any officer
15 in the employment of the Crown who is attached for the time being to the Authority, or to any Conciliation Commissioner appointed under the Industrial Conciliation and Arbitration Act 1954 such of its functions or powers as the Authority thinks fit, but not including this power of delegation.

(2) Subject to any general or special directions given or
20 conditions attached by the Authority, every person to whom any functions or powers are delegated under this section may exercise those functions or powers in the same manner as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in
25 accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section to an officer in the
30 employment of the Crown may be made to a specified officer, or may be made to the holder for the time being of a specified office.

(5) Any delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any
35 function or power by the Authority.

9. Services for Authority—The Department of Labour shall furnish such secretarial, recording, clerical, and other services as may be necessary to enable the Remuneration Authority to exercise its functions and powers.

10. Decision of Authority to be final—Proceedings before the Remuneration Authority shall not be held bad for want of form. No appeal shall lie from any decision of the Authority, and, except on the ground of lack of jurisdiction, no proceeding or order of the Authority shall be liable to be challenged, reviewed, quashed, or called in question in any Court. 5

11. Authority to comply with Government policy—(1) In the exercise of its functions and powers under this Act, the Remuneration Authority shall comply with the general policy of the Government in relation to the stabilisation of remuneration for employment, and shall comply with any general directions given by the Minister in writing to the Authority pursuant to the policy of the Government in relation thereto. 10 15

(2) Every person exercising any function or power delegated to him by the Authority under section 8 of this Act shall comply with that general policy and with all such general directions.

(3) The Minister shall cause all such general directions to be published in the *Gazette*. 20

PART II

DURATION OF PROVISIONS FIXING RATES OF REMUNERATION

12. Rates of remuneration under existing instruments to continue in force—(1) Every rate of remuneration fixed by any instrument in force at the commencement of this section shall continue in force for the period fixed by the instrument. 25

(2) Notwithstanding anything in subsection (1) of this section but subject to subsection (3) of this section, the Court of Arbitration may, during the currency of any award that is in force at the commencement of this section,— 30

(a) Amend the provisions of the award under the powers conferred by section 162 of the Industrial Conciliation and Arbitration Act 1954 by altering the date of the expiration of its currency or by amending any rate of remuneration fixed by the award; or 35

(b) Amend the provisions of the award under the powers conferred by section 6 of the Industrial Conciliation and Arbitration Amendment Act 1970 by altering the date of the expiration of its currency. 40

(3) Except with the consent of the Remuneration Authority,—

5 (a) The Court of Arbitration shall not amend any award under this section so as to increase any remuneration fixed by the award as at the 1st day of January 1970 by more than 15 percent:

10 (b) Any new award superseding an award the expiry date of which is altered under this section shall not fix any rate of remuneration that exceeds by more than 15 percent the rate of remuneration fixed by the superseded award as at the 1st day of January 1970.

(4) The Court shall not amend any award under this section, unless it is satisfied that negotiations for the amend-
15 ment had bona fide commenced before the 15th day of February 1971.

(5) Where the Court of Arbitration amends any award under this section by altering the date of its expiration, any
20 new award that supersedes the amended award shall expire on the date on which the last-mentioned award would have expired if it had not been amended.

(6) Except for the purpose of amending any award under this section, section 162 of the Industrial Conciliation and
25 Arbitration Act 1954 (so far as it confers power on the Court to amend an award by altering the date of the expiration of its currency or by altering any rate of remuneration) and section 6 of the Industrial Conciliation and Arbitration Amendment Act 1970 shall be deemed to be suspended while this section remains in force.

30 **13. Rates of remuneration to be fixed for at least 12 months—**(1) Subject to sections 12, 14, 15, and 16 of this Act, no new instrument fixing any rate of remuneration shall have any force or effect unless the provisions thereof relating to rates of remuneration are expressed to continue in force for
35 a period of at least 12 months from the date of the making of the instrument.

(2) Every person commits an offence who becomes a party to any instrument made in breach of the foregoing provisions of this section.

14. Authority may consent to rate of remuneration being fixed for shorter periods—Where all the parties to a proposed new instrument have agreed that any provision in the instrument fixing a rate of remuneration shall continue in force for a period of less than 12 months from the date of the making of the instrument, the Remuneration Authority, on the application of any party, may consent to that provision if the Authority is satisfied that in all the circumstances there are special reasons that justify a period of less than 12 months. 5

15. Cost of living orders—(1) The Remuneration Authority shall make cost of living orders based on the movement of prices as shown by the Consumers' Price Index issued by the Government Statistician. 10

(2) As soon as possible after the preparation of the Consumers' Price Index for the quarters ending with the 30th day of June 1971 and the 31st day of December 1971, the Government Statistician shall forward a copy thereof to the Authority, and the Authority shall as soon as possible make a cost of living order under this section, which shall take effect on a date fixed by the Authority, being not later than 28 days after the date on which a copy of that index was received by the Authority. 15 20

(3) Subject to subsection (5) of this section, a cost of living order shall increase the base rate of remuneration in all awards, industrial agreements, and agreements under section 8 of the Labour Disputes Investigation Act 1913 for the time being in force by the percentage specified in the order, being the same percentage as the percentage by which prices have increased in the period commencing on the 1st day of January 1971 and ending with the 30th day of June 1971 or, as the case may be, the 31st day of December 1971, as specified in the Consumers' Price Index; and all such awards, industrial agreements, and agreements under that Act shall be deemed to have been amended accordingly: 25 30

Provided that where at any time after the commencement of this section the base rate of any such remuneration has been increased (whether once or more than once), then,— 35

(a) If that base rate of remuneration has been increased before the effective date of the cost of living order by a percentage not less than the percentage specified in the order, that base rate of remuneration shall not be further increased under this subsection: 40

- (b) If that base rate of remuneration has been increased before the effective date of the cost of living order by a percentage less than the percentage specified in the order, the percentage by which that base rate of remuneration shall be further increased under this subsection shall be reduced by the percentage by which that base rate of remuneration has already been increased before the effective date of the order.
- (4) If any question arises as to whether any base rate of remuneration has been increased under subsection (3) of this section or as to the extent to which it has been increased under that subsection, any party to the award or industrial agreement or other agreement may refer the question to the Authority for determination, and the determination of the Authority shall be binding on all the parties to the award or industrial agreement or other agreement.
- (5) The provisions of section 6 (relating to exclusions from general orders) and section 7 (relating to exclusions from general orders by agreement) of the General Wage Orders Act 1969 shall, with the necessary modifications, apply to the making by the Authority of cost of living orders and to every such order, as if—
- (a) Every reference in section 6 to the Court were a reference to the Authority; and
- (b) Every reference in those sections to a general order were a reference to a cost of living order.
- (6) In this section the term “remuneration” means salary or wages; and includes time and piece wages, and allowances that are directly related to salary or wages.
- (7) Subject to subsection (5) of this section, while this section continues in force the General Wage Orders Act 1969 shall be deemed to be suspended.
- (8) While this section continues in force, paragraph (d) of section 12 of the Waterfront Industry Act 1953 shall have effect as if a cost of living order made under this section were a general order made by the Court of Arbitration.

16. Increase in rates of remuneration under agreements not subject to cost of living orders—(1) Notwithstanding anything in section 13 of this Act, any rate of remuneration fixed by any instrument (other than an award or industrial agreement or an agreement under section 8 of the Labour Disputes Investigation Act 1913) may be increased by the percentage specified in a cost of living order issued under section 15 of this Act:

Provided that in any such case the proviso to subsection (3) of section 15 of this Act shall, with the necessary modifications, apply as if the instrument were an instrument to which that subsection applied.

(2) In this section the term "remuneration" has the same meaning as in section 15 of this Act. 5

PART III

RESTRICTIONS ON INCREASING RATES OF REMUNERATION

17. Restricting increase in rates of remuneration beyond base rate—(1) Except with the consent of the Remuneration Authority given under section 18 of this Act, but subject to sections 15 and 16 of this Act, no new instrument shall fix any rate of remuneration that exceeds the base rate by a percentage greater than the specified percentage. 10

(2) Except with the consent of the Remuneration Authority given under section 18 of this Act or as provided in section 15 or section 16 of this Act, no employer shall pay to any worker employed by him remuneration at a rate that exceeds the base rate by a percentage greater than the specified percentage: 15 20

Provided that nothing in this section shall apply with respect to any such payment made to an individual worker in any of the following cases:

- (a) Where the increased payment is made as a result of the promotion of the worker from one established position to another established position: 25
- (b) Where the increased payment is made in accordance with an existing salary scale or arrangement providing for the increase on the grounds of age, service, or qualifications: 30
- (c) Where the increased payment is made on the ground that the duties or responsibilities of the worker have been substantially increased. 30

(3) Except with the consent of the Remuneration Authority given under section 18 of this Act, no employer shall pay to any worker employed by him and appointed to a new position established in the employer's undertaking remuneration at a rate that exceeds by a percentage greater than the specified percentage the base rate for the time being fixed for positions carrying corresponding duties and respon- 35 40

sibilities in the employer's undertaking or, where there is no such position, in other similar undertakings in the same locality.

(4) Every person commits an offence who becomes a party to any instrument made in breach of the provisions of subsection (1) of this section.

(5) No tribunal constituted under any enactment shall fix any remuneration to which subsection (1) of this section applies at a rate that exceeds the base rate by a percentage greater than the specified percentage, unless the Remuneration Authority has consented to that rate of remuneration under section 18 of this Act.

(6) In this section and in section 18 of this Act the term "specified percentage" means 7 percent:

Provided that the Governor-General may from time to time, by Order in Council, alter that percentage.

(7) Every Order in Council made under subsection (6) of this section shall be deemed to be a regulation for the purposes of the Regulations Act 1936.

18. Authority may consent to increase in remuneration—

(1) Where all the parties to a proposed new instrument have agreed on any rate of remuneration to be provided therein which exceeds the base rate by a percentage greater than the specified percentage, the Remuneration Authority, on the application of any party, may—

(a) Consent to the proposed rate of remuneration or to any rate that is lower than the proposed rate but exceeds the base rate by a percentage greater than the specified percentage:

Provided that the Authority may grant that consent subject to a condition that the whole or any specified part of so much of the rate of remuneration consented to as exceeds the base rate by a percentage greater than the specified percentage shall come into force on a later date fixed by the Authority; or

(b) Consent to a rate of remuneration that is lower than the proposed rate but exceeds the base rate by a percentage greater than the specified percentage, and defer until a date fixed by the Authority (being not more than 6 months after the date of the decision of the Authority) further consideration of the application in relation to the balance of the proposed rate of remuneration; or

- (c) Defer consideration of the application until a date fixed by the Authority (being not more than 6 months after the date of the decision of the Authority).
- (2) Where under subsection (1) of this section the Authority defers consideration or further consideration of an application, it may, on the application of any party to the proposed instrument, consider or, as the case may be, further consider the application before the date fixed. 5

PART IV

REMUNERATION OF STATE EMPLOYEES AND EMPLOYEES OF CERTAIN PUBLIC BODIES 10

19. Interpretation—In this Part of this Act— “Employing authority”—

(a) In relation to any person whose rate of remuneration is determined by an employing authority or tribunal under the State Services Remuneration and Conditions of Employment Act 1969, means the employing authority as defined in that Act: 15

(b) In relation to any person whose rate of remuneration is determined under section 52 of the Hospitals Act 1957 (as substituted by section 58 (1) of the State Services Remuneration and Conditions of Employment Act 1969), means the Minister of Health: 20 25

(c) In relation to any person whose rate of remuneration is determined under subsection (3) of section 6 or section 219 of the Post Office Act 1959 (as substituted by sections 59 (1) and 59 (8), respectively, of the State Services Remuneration and Conditions of Employment Act 1969), means the Director-General of the Post Office: 30

(d) In relation to any person whose rate of remuneration is determined under any of the provisions of sections 66A to 66G of the Police Act 1958 (as inserted by section 2 (1) of the Police Amendment Act 1969), means the Commissioner of Police: 35

(e) In relation to any person whose rate of remuneration is determined pursuant to regulations made under section 60A of the Education Act 1964 40

(as inserted by section 3 of the Education Amendment Act 1969), means the person having jurisdiction under those regulations to determine that rate of remuneration:

5 “State employee” means—

(a) Every person whose rate of remuneration is determined by an employing authority or a tribunal under the provisions of the State Services Remuneration and Conditions of Employment Act 1969:

10 (b) Every member of the State Services Commission:

(c) The Commissioner of Police:

15 (d) Every person whose rate of remuneration is determined under the said section 52 of the Hospitals Act 1957:

(e) Every person whose rate of remuneration is determined under the said subsection (3) of section 6 or section 219 of the Post Office Act 1959:

20 (f) Every person whose rate of remuneration is determined under any of the provisions of the said sections 66A to 66G of the Police Act 1958:

(g) Every person whose rate of remuneration is fixed pursuant to regulations made under the said section 60A of the Education Act 1964.

25 **20. Restricting increases in rates of remuneration for State employees—**(1) Except with the consent of the Remuneration Authority, but subject to the provisions of this Part of this Act, no employing authority and no tribunal having jurisdiction under any enactment to determine rates of remuneration of State employees shall issue any determination or make
30 any order fixing any rate of remuneration of State employees which exceeds the base rate.

(2) The provisions of section 18 of this Act shall, with the necessary modifications, apply with respect to any application
35 to the Authority for its consent made under this section.

(3) Nothing in subsection (1) of this section shall apply with respect to any determination by an employing authority where the authority has approved the rate of remuneration before the 15th day of February 1971, but a formal deter-
40 mination has not been issued before that date.

(4) Nothing in subsection (1) of this section shall apply with respect to any increase in remuneration granted to any individual State employee in any of the following cases:

- (a) Where the increase is granted as a result of the promotion of the employee from one established position to another established position: 5
- (b) Where the increase is granted in accordance with an existing salary scale or arrangement providing for the increase on the grounds of age, service, or qualifications: 10
- (c) Where the increase is granted on the ground that the duties or responsibilities of the employee have been substantially increased.

21. Employees whose rate of remuneration fixed by Order in Council—(1) Where pursuant to any enactment the rates of remuneration of any State employees are to be fixed by Order in Council, no such order shall be made fixing any rate of remuneration which exceeds the base rate, except on the recommendation of the Remuneration Authority made to the appropriate Minister. 15 20

(2) Nothing in subsection (1) of this section shall apply with respect to any Order in Council made before the date of the passing of this Act and having effect from a date before the commencement of this section.

22. Half-yearly reviews of remuneration—(1) Nothing in subsection (1) of section 20 or in section 21 of this Act shall apply with respect to— 25

- (a) Any adjustment of pay scales in the State services that is required to be made following the half-yearly survey conducted by the Department of Labour under section 24 of the State Services Remuneration and Conditions of Employment Act 1969 as at April of 1971: 30
- (b) Any adjustment of pay scales in the State services that is made following the ruling rate surveys of remuneration conducted by the Department of Labour as at February of 1971 and April of 1971. 35

(2) Notwithstanding anything in the State Services Remuneration and Conditions of Employment Act 1969 or in any other enactment,— 40

- (a) No adjustment of pay scales in the State services shall be made following the half-yearly survey conducted by the Department of Labour under section 24 of the State Services Remuneration and Conditions of Employment Act 1969 as at October of 1971:
- (b) Subject to the provisions of section 23 of this Act, the review of pay scales in the State services that by section 24 of the State Services Remuneration and Conditions of Employment Act 1969 is required to be made as at April of 1972 shall, after making such deductions as are necessary on account of the application to the State services of cost of living orders made before April of 1972, make such adjustments in those pay scales as are necessary to reflect the movement in pay scales outside the State Services since April of 1971, and shall come into force on the 15th day of October 1971.

23. Application of cost of living orders to State employees—

- (1) Where under section 15 of this Act the Remuneration Authority issues a cost of living order, every employing authority shall issue an amending determination increasing, in respect of the State employees in respect of whom he is the employing authority, on and from the effective date of the cost of living order, the rates of remuneration of those employees by the percentage specified in the order.

- (2) The provisions of the proviso to subsection (3) of the said section 15 shall apply with respect to every amending determination under this section as if the determination to be amended were an award.

24. Regradings and specific reviews of remuneration—

- Where after the commencement of this section any regrading of any group of positions in any of the State services or any adjustment arising from a review of the remuneration of any occupational class or group in any of the State services is made under the provisions of any enactment, that regrading or adjustment shall not be made so as to take effect before the 1st day of January 1972:

Provided that—

- (a) Where the Remuneration Authority is satisfied that negotiations for any such regrading or adjustment had progressed to a substantial degree before the 15th day of February 1971, the Authority may

consent to that regrading or adjustment having effect (in whole or in part) on such date or dates earlier than the 1st day of January 1972 as is agreed on by the parties:

- (b) The Authority may in any special case consent to any such regrading or adjustment taking effect (in whole or in part) on any date or dates earlier than the 1st day of January 1972 fixed by the Authority. 5

PART V

MISCELLANEOUS PROVISIONS 10

25. Regulations—The Governor-General may from time to time, by Order in Council, make regulations providing for such matters as are necessary or expedient for giving full effect to the provisions of this Act and for its due administration.

26. Offences and penalties—(1) Every person commits an offence who— 15

(a) Does any act in contravention of or fails to comply with any provision of this Act or of any regulations made under this Act; or

(b) Either alone or in combination with any other person or group or body of persons, does any act with the intention of defeating any provision of this Act or of any regulations under this Act. 20

(2) Every person who commits an offence against this Act is liable on summary conviction— 25

(a) In the case of an offence committed by an individual, to a fine not exceeding \$100;

(b) In the case of an offence committed by a body corporate, to a fine not exceeding \$1,000.

(3) Every payment made by an employer to a worker in breach of any provision of this Act shall be deemed to be a separate offence, whether there are several such payments to the same worker or to different workers. 30

(4) Any information for an offence against this Act may include 2 or more offences alleged to have been committed by the defendant. 35

27. This Act to prevail over other Acts—In the event of any conflict between any provisions of this Act and the provisions of any other Act, the provisions of this Act shall prevail.