

## SEAMEN'S UNION FUNDS BILL

### EXPLANATORY NOTE

THIS Bill makes provision for the administration of the assets of the deregistered New Zealand Seamen's Industrial Union of Workers (referred to in the Bill as the Union), and the eventual vesting of those assets in a new union.

*Clause 1* relates to the Short Title.

*Clause 2* is the interpretation clause, defining the expressions "assets of the Union", "Manager", "Minister", and "the Union".

The expression "assets of the Union" is defined as including the assets of any of its branches, and as also including any estate or interest in real or personal property of which any of the 4 named predecessors of the Union is still registered as proprietor.

*Clause 3* appoints the Public Trustee to be the Manager of the assets of the Union.

*Clause 4* vests the assets of the Union in the Public Trustee, to be held by him upon trust to manage and administer them until they are vested in a new union pursuant to *clause 7* of the Bill.

*Clause 5* confers certain powers on the Manager in relation to the assets of the Union. They include power to take and retain possession of those assets, to complete, carry out, perform, or enforce contracts of the Union, to take or defend proceedings relating to those assets, to insure against fire or accident or otherwise, to employ officers, servants, clerks, or agents, to open bank accounts, and to exercise any powers of a trustee in relation to those assets.

*Clause 6* provides that the Manager may pay or satisfy out of the assets all binding debts, liabilities, and obligations of the Union, and also provides for the remuneration of the Public Trustee as Manager. The costs, charges, and expenses incurred by the Public Trustee as Manager and his remuneration are to be paid from the assets of the Union in priority to other claims.

*Clause 7* provides that when the Minister is satisfied that a new union has been registered under the Industrial Conciliation and Arbitration Act 1954 representing seamen (other than officers) employed in the deck department or engine room department of New Zealand ships (including New Zealand

Government ships), he is to declare by notice in the *Gazette*, that all the assets of the former union then vested in the Manager are to vest in the new union.

On the date specified in that notice, all the assets of the former union will vest in the new union, and the liabilities of the former union and of the Manager will become liabilities of the new union.

*Clause 8* makes it an offence for any person to act in contravention of or fail to comply with any requirement lawfully made under the Act, or to resist, obstruct, deceive, or attempt to deceive the Manager or any other person who is exercising or attempting to exercise any power or function under the Act, or knowingly or negligently to make any false or misleading statement or any material omission in any information or particulars furnished to the Manager or any other person under or for the purposes of the Act.

The maximum penalty for an offence is imprisonment for 3 months or a fine of \$500 or both.

*Clause 9* authorises the making of regulations.

*Clause 10* declares that the Act is to be administered in the Department of Labour.

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*Right Hon. Mr Marshall*

## SEAMEN'S UNION FUNDS

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### ANALYSIS

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### A BILL INTITULED

**An Act to provide for the management of the assets of the deregistered New Zealand Seamen's Industrial Union of Workers, and for matters incidental thereto**

- 5 WHEREAS the registration of the New Zealand Seamen's Industrial Union of Workers was cancelled, pursuant to section 198 of the Industrial Conciliation and Arbitration Act 1954, by notice in the *Gazette* on the 5th day of November 1971: And whereas it is expedient that pending the registration of a new union provision be made for the management and administration of the assets of the former union, for the discharge of its lawful obligations, and also that provision be made for the vesting in a new union of the assets of the former union, and for other incidental and subsidiary matters:

15 **BE IT THEREFORE 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 Seamen's Union Funds Act 1971.

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

“Assets of the Union” means all real or personal property 5  
of the Union or of any of its branches; and, without  
limiting the generality of the foregoing provisions  
of this definition, includes—

(a) Bank notes and other currency, postal notes, 10  
money orders, promissory notes, and bills of exchange,  
and any other negotiable instruments payable in  
currency; and

(b) Any amount deposited in a bank, and any 15  
amount for which cheques can be drawn on a bank  
pursuant to an arrangement for the time being sub-  
sisting; and

(c) Any real or personal property of any member 20  
or officer or position-holder of the Union or any of its  
branches, if that property was the property of the  
Union or any branch on the 4th day of November  
1971; and

(d) All real and personal property of the Union or 25  
any of its branches which at any time has been  
transferred to or vested in any person in trust for  
the Union or of any of its branches or has been  
disposed of without adequate consideration in money  
or money's worth;—

and also includes every estate or interest in real 30  
or personal property of which The Federated Sea-  
men's Union of New Zealand Industrial Association  
of Workers, or the Auckland Federated Seamen's  
Industrial Union of Workers, or the Wellington  
Federated Seamen's Industrial Union of Workers,  
or The Dunedin Federated Seamen's Industrial 35  
Union of Workers (being predecessors of the Union)  
is registered as the proprietor at the date of the  
passing of this Act:

“Manager” means the Public Trustee as Manager of the 40  
assets of the Union:

“Minister” means the Minister of Labour:

“The Union” means the organisation known as The New 40  
Zealand Seamen's Industrial Union of Workers on  
the 4th day of November 1971.

**3. Appointment of Manager**—The Public Trustee is hereby appointed to be the Manager of the assets of the Union.

**4. Vesting of assets**—(1) All assets of the Union are hereby vested in the Public Trustee, and shall be held by him upon  
5 trust to manage and administer the same until they are vested in a new union pursuant to section 7 of this Act.

(2) A certificate under the hand and seal of the Public Trustee or of any District Public Trustee to the effect that any asset described in the certificate has vested in the Public  
10 Trustee pursuant to subsection (1) of this section shall be accepted by all Courts, Registrars, officials, companies, corporations, and other persons as sufficient evidence that the asset has so vested.

(3) Upon the production of any such certificate, together  
15 with an application by the Public Trustee or any District Public Trustee, for the registration of the Public Trustee as proprietor of the asset described in the certificate in place of the proprietor named in the instrument of title to that asset, the Registrar, official, company, corporation, or other  
20 person responsible for keeping a registrar of such instruments of title shall register the Public Trustee as proprietor of that asset.

**5. Powers of Manager**—The Manager shall have the following powers:

25 (a) To take and retain possession of all assets of the Union, and in particular, but without limiting the generality of the power conferred by this paragraph, to demand, receive, and hold all instruments of title to any of the assets which are or may be in the possession or under the control of any person, whether or  
30 not employed by the Union or any branch thereof, with all related documents, records, and lists or instruments of title:

(b) To have full and free access to any books of accounts, documents, and records of the Union or of any  
35 branch of the Union, and make copies thereof or take extracts therefrom, and, if he considers it necessary, to take and retain possession thereof:

(c) To complete, carry out, perform, or enforce in such  
40 manner as he may think fit any contracts entered into by the Union or any branch thereof before the 5th day of November 1971 and exercise any powers conferred by any such contract:

- (d) To do any act or thing requisite to obtaining or perfecting the title to any of the assets:
- (e) To bring any action or other proceedings relating to the assets or to the recovery thereof, and defend, confess, or compromise, or submit to judgment in, any action, claim, demand, or proceeding touching the assets: 5
- (f) To insure against fire or accident or otherwise any of the assets:
- (g) To employ or appoint servants, clerks, and agents on such terms and subject to such conditions as he thinks fit: 10
- (h) To appoint an agent to do anything that the Manager is authorised to do as Manager of the assets of the Union; to delegate all or any of his powers and functions, either generally or particularly, to any person or class of persons, and to revoke any such delegation: 15
- (i) To open in any bank in New Zealand an account in the name of the Manager, and operate on the account in such manner and to such extent as the Manager may from time to time determine: 20
- (j) To exercise as if he were trustee of the assets all powers which he could exercise under the Trustee Act 1956 or any other Act or law:
- (k) Such other powers as may be conferred on the Manager by regulations made pursuant to section 9 of this Act. 25

**6. Liabilities, expenses, and remuneration**—(1) The Manager may pay or satisfy out of the assets of the Union all debts, liabilities, and obligations of the Union or any branch of the Union, so far as the law binds and the assets in his hands and available for the purpose extend. 30

(2) The remuneration of the Public Trustee as Manager of the Union shall, subject to the approval of the Minister, be determined in accordance with the regulations for the time being in force under the Public Trust Office Act 1957, and shall be paid out of the assets of the Union to the credit of the Public Trustee's Account. 35

(3) All costs, charges, and expenses incurred by the Public Trustee as Manager of the assets of the Union and the remuneration of the Public Trustee shall be paid out of those assets in priority to all other claims. 40

**7. Disposal of assets**—(1) Where the Minister is satisfied that a new union of workers representing seamen (other than officers) employed in the deck department or engine room department of New Zealand ships (including New Zealand Government ships) has after the passing of this Act been registered under the Industrial Conciliation and Arbitration Act 1954, he shall, by notice in the *Gazette*, declare that—

- (a) The new union has been so registered under the name specified in the notice; and
- 10 (b) On the date specified in the notice (being the date of the notice or any later date), the assets of the Union then vested in the Public Trustee shall vest in the new union pursuant to subsection (2) of this section.

15 (2) On the publication of that notice in the *Gazette*,—

- (a) Those assets of the Union shall on the date specified in the notice vest by virtue of this subsection in the new union named in the notice; and

- 20 (b) All the liabilities and obligations of the Union or of the Manager on that date shall become liabilities and obligations of the new union.

(3) Where the Public Trustee has not been registered as the proprietor of any asset of the Union, a certificate under the hand and seal of the Public Trustee or of any District Public Trustee to the effect that that asset is one which was vested in the Public Trustee pursuant to subsection (1) of section 4 of this Act shall be accepted by all Courts, Registrars, officials, companies, corporations, and other persons as sufficient evidence that that asset is one to which subsection (2) of this section applies.

30 (4) In this section the expressions “New Zealand ship”, “New Zealand Government ship”, and “seamen” have the same meanings as in the Shipping and Seamen Act 1952.

**8. Offences**—(1) Every person commits an offence against this Act who—

- (a) Acts in contravention of or fails to comply in any respect with any requirement lawfully made under this Act;
- 40 (b) Resists, obstructs, deceives, or attempts to deceive the Manager or any other person who is exercising or attempting to exercise any power or function under this Act;

(c) Knowingly or negligently makes any false or misleading statement or any material omission in any information or particulars furnished to the Manager or any other person under or for the purposes of this Act.

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(2) Every person who commits an offence against this Act is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$500, or to both.

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

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**10. Act to be administered in the Department of Labour**—

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

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(2) The First Schedule to the Labour Department Act 1954 (as substituted by section 3 (1) of the Labour Department Amendment Act 1970) is hereby amended by inserting, after the reference to the National Military Service Act 1961, the words "The Seamen's Union Funds Act 1971".

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