

WAGE FIXING REFORM BILL

EXPLANATORY NOTE

THIS Bill reforms the law relating to the fixing of wages, other rates of remuneration, and conditions of employment.

PART I

AMENDMENTS TO INDUSTRIAL RELATIONS ACT 1973

Clause 3 amends the definition of the term "dispute of interest". The amendment recognises that a dispute of interest may relate to more than one industry.

Clause 4 inserts a new *Part II A* (comprising new *sections 16 A to 16 J*) into the principal Act.

The new *section 16 A* provides that in the year ending on the 31st day of December 1985, and in each subsequent year, the Minister of Labour shall, after consultation with the Minister of Finance, arrange a Tripartite Wage Conference between—

- (a) Persons representing the New Zealand Government; and
- (b) Persons representing workers and State employees, which persons shall comprise—
 - (i) Persons nominated by the central organisation of workers; and
 - (ii) Persons nominated by the service organisation within the meaning of the State Services Conditions of Employment Act 1977 that is known at the commencement of the new *Part II A* of the principal Act as the Combined State Unions; and
- (c) Persons representing employers of workers and employers of State employees, which persons shall comprise—
 - (i) Persons nominated by the central organisation of employers; and
 - (ii) Persons nominated by the State Services Co-ordinating Committee.

The Minister of Labour is to appoint the day for the beginning of each Tripartite Wage Conference.

Each Tripartite Wage Conference shall end not later than the close of the 90th day after the day on which it begins.

No meeting of a Tripartite Wage Conference is to take place unless persons representing each of the 3 groups and each of the subgroups mentioned in *paragraphs (a) to (c)* of the new *section 16 A (1)* are present.

The new *section 16 B* provides that the chairman of each Tripartite Wage Conference shall be a Minister of the Crown. Any 2 Ministers of the Crown may act as co-chairmen.

The new *section 16c* provides that any body of persons that is entitled to nominate a person under the new *section 16A (1) (b)* or *(1) (c)* may appoint another person to act as the nominated person's deputy.

The new *section 16D* sets out who may participate in a Tripartite Wage Conference.

The new *section 16E* provides that each Tripartite Wage Conference is to be a forum for consultations about—

- (a) The economic environment in which wages and other remuneration and conditions of employment will be settled after the Conference; and
- (b) In relation to that environment, the Government's economic policies.

The new *section 16F* provides that each Tripartite Wage Conference is to be a forum for consultations about the interests of the low-paid and methods by which the interests of the low-paid may be protected.

The new *section 16G* provides that each Tripartite Wage Conference may, by unanimous decision, reach such conclusions and make such recommendations as it thinks fit in relation to any aspects of any matter in respect of which consultations take place under the new *section 16E* or the new *section 16F*.

The new *section 16H* provides that any guideline contained in a conclusion or recommendation of a Tripartite Wage Conference shall, in relation to Courts, Tribunals, and persons involved in fixing wages and conditions of employment, operate only as a guide.

The new *section 16I* provides that the Government shall arrange for the supply to those participating in a Tripartite Wage Conference of a full written briefing on the state of the New Zealand economy.

The Conference may request from the Government additional information about any matter to which consultations under the new *section 16E* or the new *section 16F* relate.

The new *section 16J* provides that a Tripartite Wage Conference may set up working parties, which shall have such members and such functions as the Conference thinks fit.

Clauses 5 and 6 provide—

- (a) For the appointment of temporary nominated members of the Arbitration Court; and
- (b) For the appointment of 2 or more acting nominated members of the Arbitration Court in respect of the nominated members (including any temporary nominated members) appointed on the nomination of the central organisation of employers; and
- (c) For the appointment of 2 or more acting nominated members of the Arbitration Court in respect of the nominated members (including any temporary nominated members) appointed on the nomination of the central organisation of workers.

Clause 7 amends section 48 (1) (b) of the principal Act (which confers on the Arbitration Court jurisdiction for the settlement and determination of any dispute of rights referred to it under the principal Act). The amendment recognises that, under the new provisions which are contained in section 115 (as substituted by *clause 16* of this Bill) and which relate to disputes of rights, a dispute of rights may be referred to the Arbitration Court under an award or a collective agreement.

Clause 8 amends section 65 of the principal Act (which relates to voluntary settlements). Where the parties to a dispute of interest jointly agree to negotiate a collective agreement for the voluntary settlement of the dispute and then fail to agree on some of the issues involved in the dispute, the amendments made

by *subclause (1)* of this clause provide that the Arbitration Court may hear and determine those issues if the parties, by agreement in writing, refer those issues to the Court.

The determinations of the Court on issues so referred to it shall be treated as if they were part of the voluntary settlement of the dispute.

The amendment made by *subclause (2)* provides that any agreement or voluntary settlement entered into under section 65 of the principal Act by any union or association or person may be signed on behalf of that union or association or person by a duly authorised agent of that union or association or person.

Clause 9 repeals section 66 of the principal Act (which relates to composite agreements), and substitutes a new section.

Subsections (3) and (4) are new. They follow the *subsections (2A) and (2B)* inserted into section 65 by *clause 8 (1)* of this Bill.

Subsection (5) is new. It provides that the Court shall not register a composite agreement unless it contains provision for the setting up of effective machinery—

- (a) For the final and conclusive settlement of all disputes of rights; and
- (b) For the setting up of effective machinery to deal with personal grievances.

Subsection (6) is new. It provides that where the effective machinery provided pursuant to *subsection (5)* includes a right of appeal to a court, that court shall be the Arbitration Court.

Subsection (7) is new. It provides that a composite agreement shall take effect according to its tenor and shall prevail over any award or any collective agreement applying to the workers engaged in the undertaking or group of undertakings to which the composite agreement relates, so far as there is any inconsistency between the composite agreement and the award or the collective agreement.

Subsections (8) to (10) are new. They provide specifically for the joinder to a composite agreement of additional parties.

Subsections (11) to (13) are new. They empower any union or association to withdraw from a composite agreement.

Subsection (14) is new. It provides that where, during the negotiating for any composite agreement, any claim in respect of any matter is raised and finally disposed of, no party to the composite agreement shall, in relation to employment that is subject to that composite agreement, make that claim a subject of dispute.

Clause 10 effects a consequential amendment to section 67 of the principal Act. The amendment is consequential on the new *subsections (2A) and (2B)* of section 65 (which are set out in *clause 8 (1)*) and on the new *subsections (3) and (4)* of section 66 (which are set out in *clause 9*).

Clause 11 amends section 82 of the principal Act (which relates to conciliated settlements).

The existing section requires the conciliator to notify the terms of the settlement to each of the central organisations, to the representatives of the parties, and to the Registrar of the Arbitration Court. The Arbitration Court then embodies the terms in a collective agreement and registers it.

Then, under the existing section, a copy of the collective agreement is deposited in the office of the Court and a copy is forwarded by the Registrar to each of the central organisations, to the representatives of the parties, and to the Secretary of Labour.

Under the section, as amended by *subclause (1)* of this clause, the assessors are required to prepare, and give to the conciliator, a memorandum stating—

- (a) Whether or not the implementation of the terms of the settlement will effect any increase in any rate of wages or other remuneration or any other significant change in conditions of employment; and

- (b) If the implementation of the terms of settlement will effect such an increase or change, identifying the reasons for the increase, and, if possible, in the case of such an increase, quantifying the components that make up the increase.

The terms of settlement, together with a copy of that memorandum, are then to be given by the conciliator to each of the central organisations, to the representatives of the parties, and to the Registrar of the Court.

When the Registrar of the Court has received both the terms of settlement and a copy of the memorandum, the Court is to embody the terms of settlement in a collective agreement and register it.

A copy of the memorandum—

- (a) Is to be deposited in the office of the Court with the collective agreement; and
- (b) Is to be forwarded by the Registrar, together with a copy of the agreement, to each of the central organisations, to the representatives of the parties, and to the Secretary of Labour.

The amendment made by *subclause (2)* of the clause provides that any application made under subsection (5) or subsection (6) of section 82 by any union or association or employer may be signed on behalf of that union or association or employer by a duly authorised agent of that union or association or employer.

Clause 12 amends section 83 (1) of the principal Act (which relates to subsequent parties to a collective agreement registered by the Arbitration Court under section 82 of the principal Act). The amendment recognises that such a collective agreement may relate to more than one industry.

Clause 13 amends section 83A (1) of the principal Act (which relates to the power to add to an award or a collective agreement registered by the Court under section 82 of the principal Act parties who are outside the locality in which the award or agreement has effect). The amendment recognises that such an award or collective agreement may relate to more than one industry.

Clause 14 repeals section 84 of the principal Act (which deals with the reference of an unsettled dispute of interest to the Arbitration Court), and substitutes a new section.

If a dispute of interest is not settled, two options are to be available to the parties.

The first is that the conciliator may, if the parties agree, refer the dispute to the Arbitration Court for settlement.

The second, which arises if the first is not agreed on, is the adjournment of the proceedings by the conciliator and the making by the conciliator of a report to the Court. Once the proceedings before the conciliation council have been so adjourned, neither party may withdraw from those proceedings.

Under both options the Court forthwith calls the parties to a meeting, which meeting shall be for the purpose of determining the most appropriate method of resolving the dispute.

At that meeting, the Court, after giving the parties the opportunity to make submissions, may do all or any of the following:

- (a) Notwithstanding anything in section 64 (5) of the principal Act, refer the dispute to a mediator, who shall not have any power to hear and determine the dispute or any matter at issue in the dispute;
- (b) Refer the dispute back to the conciliator for further hearings by the conciliation council;
- (c) Consult each of the central organisations with a view to ascertaining whether they could assist in resolving the dispute:

(d) With the consent of the parties, hear and determine the dispute by making an award.

In cases of urgency, the jurisdiction of the Court may be exercised by a Judge alone.

Where the Court hears and determines the dispute, it shall give in writing its reasons for the making of the award.

Where the reference of the dispute to a mediator or the reference of the dispute back to a conciliator or the undertaking of a consultation with the central organisations is not successful in resolving the dispute, the parties shall report that fact to the Court, which shall thereupon both deem the dispute to be withdrawn and dissolve the conciliation council.

Any agreement entered into for the purposes of the new *section 84* by the applicants or the respondents may be signed on behalf of the applicants by a duly authorised agent of the applicants and on behalf of the respondents by a duly authorised agent of the respondents.

Clause 15 inserts a new section 86A into the principal Act. The new section sets out the criteria that the Arbitration Court, in making an award under section 86 of the principal Act or in refusing to make an award under that section, shall have regard to.

The criteria are—

- (a) The supply and demand factors for the skills of the workers covered by the award; and
- (b) The need for fairness and equity in the rates of pay and conditions of employment for the work covered by the award; and
- (c) Any changes in the content of any job or in the skills, duties, or responsibilities of positions covered by the award; and
- (d) Any changes in productivity arising from, for example, the introduction of new technology; and
- (e) Relativities within the award, and between the award and other awards and agreements.

In applying the criteria, the Court—

- (a) Is not to be bound by historical precedent and practice of any sort; and
- (b) Is to consider whether relativities or conditions of employment should be changed to take account of factors that are specific to the work covered by the award.

Clause 16 repeals section 115 of the principal Act (which makes provision for disputes of rights), and substitutes a new section.

Subsection (1) of the new section provides that every award made or collective agreement registered after the commencement of this Bill shall, subject to *subsections (2), (3) and (7)*, contain a clause for the final and conclusive settlement, without stoppage of work, of all disputes of rights, including differences between the persons bound by the award or agreement concerning its interpretation, application, or operation.

Subsection (2) of the new section provides that where the clause required by *subsection (1)* confers a right of appeal to a Court, that Court shall be the Arbitration Court.

Subsection (3) of the new section provides that where the parties fail to agree on the form of the clause required by *subsection (1)*, the Court shall, in making the award, insert into the award the clause set out in section 116 of the principal Act.

Subsections (1) and (3) reverse the burden of the existing section 115. Under that existing section the standard clause set out in section 116 is required to be contained in every award or collective agreement unless the Court in its discretion approves some other clause.

Subsections (4) and (5) of the new section maintain the status quo in respect of awards and collective agreements in force when the new section comes into force.

Subsection (6) of the new section re-enacts the substance of subsection (4) of the existing section.

Subsection (7) of the new section provides that nothing in the new *section 115* applies in respect of any composite agreement under section 66. That section, as set out in *clause 9 (1)* of this Bill, contains its own provisions in respect of machinery for the final and conclusive settlement of all disputes of rights.

Clause 17 amends section 117 of the principal Act (which relates to the settlement of personal grievances).

Subsection (2) of that section provides that every award or collective agreement shall contain provision for the setting up of effective machinery to deal with personal grievances.

The amendments made by this clause reverse the burden of the existing section 117. Under the existing section the standard procedure set out in section 117 (4) is deemed to be included in every award or collective agreement unless in the award or agreement the parties have agreed upon, and the Court has approved, some other written procedure for the settlement of personal grievances.

Under section 117 (as amended by this clause) the standard procedure is to be included in the award by the Court only if the parties fail to agree on the form of the provision required by subsection (2) of the section.

Clause 18 is a transitional provision in respect of acting nominated members.

PART II

AMENDMENT TO AGRICULTURAL WORKERS ACT 1977

Clause 20 inserts a new section 33A into the Agricultural Workers Act 1977. The new section sets out the criteria that the Agricultural Tribunal, in making an award or in declining to make an award, shall have regard to.

The criteria set out in the new section parallel those set out in *section 86A* of the Industrial Relations Act 1973 (as inserted by *clause 15* of this Bill).

PART III

AMENDMENT TO AIRCREW INDUSTRIAL TRIBUNAL ACT 1971

Clause 22 inserts a new *section 39A* into the Aircrew Industrial Tribunal Act 1971. The new section sets out the criteria that the Aircrew Industrial Tribunal, in making an award or in declining to make an award, shall have regard to.

The criteria set out in the new section parallel those set out in *section 86A* of the Industrial Relations Act 1973 (as inserted by *clause 15* of this Bill).

PART IV

AMENDMENT TO WATERFRONT INDUSTRY ACT 1976

Clause 24 inserts a new *section 15B* into the Waterfront Industry Act 1976. The new section sets out the criteria that the Waterfront Industry Tribunal, in making a principal order or in declining to make a principal order, shall have regard to.

The criteria set out in the new section parallel those set out in *section 86A* of the Industrial Relations Act 1973 (as inserted by *clause 15* of this Bill).

Hon. Stan Rodger

WAGE FIXING REFORM

ANALYSIS

Title		
1. Short Title		
PART I		
AMENDMENTS TO INDUSTRIAL RELATIONS ACT 1973		
2. This Part to be read with Industrial Relations Act 1973	46. Disqualification of nominated members	
3. Interpretation	47. Extraordinary vacancies	
4. New Part IIA inserted	7. Jurisdiction of Court	
PART IIA		8. Voluntary settlements
TRIPARTITE WAGE CONFERENCE		9. Composite agreements
16A. Tripartite Wage Conference	10. Dispute of interest to be referred in first instance to conciliation council	
16B. Chairman	11. Conciliated settlement	
16C. Deputies	12. Subsequent parties to agreement	
16D. Participants	13. Power to add parties outside locality of award or collective agreement	
16E. Consultations about economic environment	14. Reference of unsettled dispute to Court	
16F. Consultations about interests of low-paid	15. Criteria	
16G. Conclusions and recommendations	16. Provision for disputes of rights	
16H. Guidelines	17. Settlement of personal grievances	
16I. Briefing on state of economy	18. Transitional provision in respect of acting nominated members	
16J. Working parties	PART II	
5. Constitution of Court not to be questioned	AMENDMENT TO AGRICULTURAL WORKERS ACT 1977	
6. New sections substituted	19. This Part to be read with Agricultural Workers Act 1977	
41A. Temporary nominated members	20. Criteria	
42. Acting nominated members	PART III	
43. Terms of office of nominated and acting members	AMENDMENT TO AIRCREW INDUSTRIAL TRIBUNAL ACT 1971	
44. Oath of office and secrecy	21. This Part to be read with Aircrew Industrial Tribunal Act 1971	
45. Remuneration of nominated members	22. Criteria	
45A. Travelling allowances and expenses	PART IV	
	AMENDMENT TO WATERFRONT INDUSTRY ACT 1976	
	23. This Part to be read with Waterfront Industry Act 1976	
	24. Criteria	

A BILL INTITULED

**An Act to reform the law relating to the fixing of wages,
other rates of remuneration, and conditions of
employment**

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

1. Short Title—This Act may be cited as the Wage Fixing
Reform Act 1984.

PART I

10

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). 15

*R.S. Vol. 14, p. 221

3. Interpretation—Section 2(1) of the principal Act is
hereby amended by inserting in the definition of the term
“dispute of interest”, after the word “industry”, the words “or
industries”.

4. New Part IIA inserted—The principal Act is hereby 20
amended by inserting, after Part II, the following Part:

“PART IIA

“TRIPARTITE WAGE CONFERENCE

“16A. **Tripartite Wage Conference**—(1) In the year ending 25
on the 31st day of December 1985, and in each subsequent
year, the Minister of Labour shall, after consultation with the
Minister of Finance, arrange a Tripartite Wage Conference
between—

- “(a) Persons representing the New Zealand Government; and
- “(b) Persons representing workers and State employees, 30
which persons shall comprise—
 - “(i) Persons nominated by the central organisation
of workers; and
 - “(ii) Persons nominated by the service organisation
within the meaning of the State Services Conditions 35

of Employment Act 1977 that is known at the commencement of this Part of this Act as the Combined State Unions; and

5 “(c) Persons representing employers of workers and employers of State employees, which persons shall comprise—

“(i) Persons nominated by the central organisation of employers; and

10 “(ii) Persons nominated by the State Services Coordinating Committee.

“(2) The Minister shall appoint the day for the beginning of each Tripartite Wage Conference.

“(3) Each Tripartite Wage Conference shall end not later than the close of the 90th day after the day on which it begins.

15 “(4) No meeting of a Tripartite Wage Conference shall take place unless persons representing each of the 3 groups and each of the subgroups mentioned in paragraphs (a) to (c) of subsection (1) of this section are present.

20 “16B. **Chairman**—(1) Subject to subsection (2) of this section, the chairman of a Tripartite Wage Conference shall be a Minister of the Crown.

“(2) Any 2 Ministers of the Crown may act as co-chairmen of a Tripartite Wage Conference.

25 “16C. **Deputies**—(1) Any body of persons that is entitled to nominate a person under section 16A (1) (b) or (1) (c) of this Act to attend a Tripartite Wage Conference may from time to time appoint another person to act as the nominated person’s deputy and may from time to time cancel any such appointment.

30 “(2) Subject to subsection (3) of this section, every deputy appointed under subsection (1) of this section shall, during the continuance of the deputy’s appointment, be entitled to act, under this Act, on behalf of the nominated person in respect of whom the deputy is appointed.

35 “(3) Nothing in subsection (2) of this section shall prevent any person, who is nominated under section 16 (1) (b) or (1) (c) of this Act to attend a Tripartite Wage Conference, from exercising any power or performing any function conferred upon that person by this Act.

40 “(4) No appointment of a deputy and no act done by a deputy as such, and no act done by a Tripartite Wage Conference while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for the deputy’s so acting had not arisen or had ceased.

“16D. **Participants**—The only persons entitled to attend a Tripartite Wage Conference and to participate in the consultations that take place at a Tripartite Wage Conference shall be—

“(a) The persons mentioned in **paragraphs (a) to (c) of section 5 16A (1)** of this Act:

“(b) Any deputy nominated under **section 16c** of this Act:

“(c) Any person who, in respect of a Tripartite Wage Conference, is—

“(i) An adviser to any of the 3 groups or any of 10 the subgroups mentioned in **paragraphs (a) to (c) of section 16A (1)** of this Act; or

“(ii) A member of a working party set up under **section 16J** of this Act.

“16E. **Consultations about economic environment**— 15
(1) Each Tripartite Wage Conference shall be a forum for consultations about—

“(a) The economic environment in which wages and other remuneration and conditions of employment will be settled after the Conference; and 20

“(b) In relation to that environment, the Government’s economic policies.

“(2) Those consultations, which are to be based on a full and frank exchange of information by those attending, shall relate to— 25

“(a) Past trends and likely developments in—

“(i) Inflation; and

“(ii) The distribution of incomes from all sources; and

“(iii) The competitiveness of New Zealand 30 industry; and

“(b) The implications of the Government’s fiscal and monetary policies; and

“(c) The employment situation; and

“(d) Such other matters as the Conference determines from 35 time to time.

“16F. **Consultations about interests of low-paid**—(1) Each Tripartite Wage Conference shall be a forum for consultations about the interests of the low-paid and methods by which the interests of the low-paid may be protected. 40

“(2) Those consultations, which are to be based on a full and frank exchange of information by those attending, shall relate to—

“(a) The wages of the low-paid and their other remuneration and conditions of employment; and 45

“(b) The rates of social security benefits; and

“(c) The rates of taxation; and

5 “(d) The appropriate mix of Government spending, taxation, and wage policies required to protect the interests of the low-paid, including—

“(i) The effectiveness of the mechanism by which the minimum wage is fixed; and

10 “(ii) The level of the minimum wage and other minimum standards governing the employment of workers and State employees.

“16G. **Conclusions and recommendations**—Each Tripartite Wage Conference may, by unanimous decision, reach such conclusions and make such recommendations as it thinks fit in relation to any aspects of any matter in respect of which
15 consultations take place under **section 16E** or **section 16F** of this Act.

“16H. **Guidelines**—Any guideline contained in a conclusion or recommendation of a Tripartite Wage Conference shall, in relation to Courts, Tribunals, and persons involved in fixing
20 wages and conditions of employment, operate only as a guide.

“16I. **Briefing on state of economy**—(1) The Government shall arrange for the supply to those participating in a Tripartite Wage Conference of a full written briefing on the state of the New Zealand economy.

25 “(2) The Conference may request from the Government additional information about any matter to which consultations under **section 16E** or **section 16F** of this Act relate.

“16J. **Working parties**—A Tripartite Wage Conference may set up working parties, which shall have such members and
30 such functions as the Conference thinks fit.”

5. Constitution of Court not to be questioned—Section 34 of the principal Act (as enacted by section 3 of the Industrial Relations Amendment Act 1977) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Notwithstanding anything in this Act, the appointment of a nominated member or temporary nominated member or acting nominated member of the Court shall not be questioned on any ground whatsoever; and no act done by the Court sitting with a temporary nominated member or an acting nominated member, or done by any such temporary nominated member or acting nominated member, shall be questioned on the ground that the occasion for his acting as a member of the Court had not arisen or had ceased.”

6. New sections substituted—The principal Act is hereby amended by repealing sections 42 to 47 (as enacted by section 3 of the Industrial Relations Amendment Act 1977), and substituting the following sections:

“41A. Temporary nominated members—(1) The Governor-General may from time to time, on the advice of the Minister, appoint,— 5

“(a) On the nomination of the central organisation of employers, 1 or more temporary nominated members of the Court; and 10

“(b) On the nomination of the central organisation of workers, 1 or more temporary nominated members of the Court.

“(2) The number of temporary nominated members appointed under **subsection (1) (a)** of this section and the number of temporary nominated members appointed under **subsection (1) (b)** of this section shall be the same. 15

“(3) Each temporary nominated member shall hold office for such period as is specified in the warrant of appointment.

“(4) The period so specified shall not exceed 2 years or, in the case of a person who has attained the age of 70 years, 12 months; but any person appointed under this section may from time to time be reappointed. 20

“(5) The power conferred by this section may be exercised at any time, notwithstanding that there may be one or more persons holding the office of nominated member of the Court under section 41 of this Act. 25

“(6) Every temporary nominated member shall retire from office on attaining the age of 72 years.

“42. Acting nominated members—(1) The Governor-General may from time to time, on the advice of the Minister, appoint,— 30

“(a) In respect of the nominated members (including any temporary nominated members) appointed on the nomination of the central organisation of employers, 2 or more acting nominated members of the Court; and 35

“(b) In respect of the nominated members (including any temporary nominated members) appointed on the nomination of the central organisation of workers, 2 or more acting nominated members of the Court. 40

“(2) The number of acting nominated members appointed under **subsection (1) (a)** of this section and the number of acting nominated members appointed under **subsection (1) (b)** of this section shall be the same. 45

“(3) The function of each acting nominated member shall be to act in the absence of any nominated member in respect of whom the acting nominated member is appointed.

5 “(4) An acting nominated member shall be appointed in the same manner as the members in whose absence the acting nominated member is to act.

10 “(5) If at any time a vacancy exists in the office of a nominated member of the Court, or if a nominated member or a temporary nominated member is not present at a sitting of the Court, the Judge presiding may summon an acting nominated member to attend the sittings of the Court and to act in the place of the nominated member or the temporary nominated member. While so attending and acting, the acting nominated member shall have the powers, functions, and
15 privileges, and shall perform the duties, of the nominated member or temporary nominated member for whom the acting nominated member is acting.

20 “(6) When the nominated member or a temporary nominated member is again present at the sittings of the Court, the acting nominated member shall cease to act; but, if the acting nominated member is then engaged on the hearing of a case, the Judge presiding may require the acting nominated member to complete the hearing before ceasing to act.

25 “(7) If a nominated member or temporary nominated member is himself a party to a dispute or proceeding before the Court, and is consequently unable to act, the acting nominated member may attend and act, and **subsections (5) and (6)** of this section shall apply with the necessary modifications.

30 “**43. Terms of office of nominated and acting members**—(1) Every nominated member or acting nominated member of the Court shall hold office for a term of 5 years from the date of his appointment, and shall be eligible for reappointment from time to time.

35 “(2) Unless he sooner vacates his office under **section 47** of this Act, every nominated member or acting nominated member shall continue in office until his successor comes into office, notwithstanding that his term of office may have expired.

40 “**44. Oath of office and secrecy**—Before entering on the exercise of the functions of his office, every nominated member or temporary nominated member or acting nominated member of the Court shall take an oath or make an affirmation before a Judge that he will faithfully and impartially perform the duties of his office, and that, except in the discharge of his duties, he will not disclose to any person any evidence or other matter
45 brought before the Court.

“45. **Remuneration of nominated members**—(1) There shall be paid out of money appropriated by Parliament for the purpose to each nominated member or temporary nominated member or acting nominated member of the Court such remuneration by way of fees, salary, wages, or allowances as may from time to time be fixed, either generally or in respect of any particular member or members, by the Higher Salaries Commission. 5

“(2) Any decision under **subsection (1)** of this section shall take effect on such date (whether the date thereof or any earlier or later date) as may be specified therein. If no date is so specified the decision shall take effect on the date thereof. 10

“45A. **Travelling allowances and expenses**—There shall be paid to each nominated member or temporary nominated member or acting nominated member of the Court travelling allowances and travelling expenses, in accordance with the Fees and Travelling Allowances Act 1951, and that Act shall apply accordingly as if every such member were a member of a statutory Board. 15

“46. **Disqualification of nominated members**—The following persons shall be disqualified from being appointed or becoming or holding office as a nominated member or temporary nominated member or acting nominated member of the Court; and if so appointed shall be incapable of continuing to hold the office: 20 25

“(a) A bankrupt who has not been discharged, or whose order of discharge is suspended for a time not yet expired or is subject to conditions not yet fulfilled:

“(b) A mentally disordered person within the meaning of the Mental Health Act 1969: 30

“(c) An alien:

“(d) A person who has attained the age of 72 years.

“47. **Extraordinary vacancies**—(1) The Governor-General shall remove from office any nominated member or temporary nominated member or acting nominated member of the Court who— 35

“(a) Becomes disqualified or incapable under **section 46** of this Act; or

“(b) Is proved, to the satisfaction of the Governor-General, to be under a disability or to have been guilty of neglect of duty or misconduct; or 40

“(c) Is absent without the consent of a Judge from 4 consecutive sittings of the Court.

“(2) Any nominated member or temporary nominated member or acting nominated member may resign his office by letter addressed to the Minister.

5 “(3) If any nominated member dies or resigns, or is removed from office, the vacancy so created shall be deemed to be an extraordinary vacancy.

“(4) If an acting nominated member is appointed a nominated member or a temporary nominated member, an extraordinary vacancy shall be deemed to exist in the office
10 of acting nominated member.

“(5) An extraordinary vacancy under this section shall as soon as practicable be filled by the appointment of a person to that office by the Governor-General in the manner in which the appointment to the vacant office was originally made.”

15 **7. Jurisdiction of Court**—Section 48 (1) (b) of the principal Act (as enacted by section 3 of the Industrial Relations Amendment Act 1977) is hereby amended by adding the words “or any award or collective agreement”.

8. Voluntary settlements—(1) Section 65 of the principal
20 Act is hereby amended by inserting, after subsection (2), the following subsections:

“(2A) If there are issues on which the parties fail to agree, the Court may hear and determine those issues if the parties, by agreement in writing, refer those issues to the Court.

25 “(2B) The determinations of the Court on issues referred to it under **subsection (2A)** of this section shall be treated as if they were part of the voluntary settlement of the dispute.”

(2) Section 65 of the principal Act is hereby further amended by adding, after subsection (8) (as added by section 2 (2) of the
30 Industrial Relations Amendment Act 1975), the following subsection:

“(9) Any agreement or voluntary settlement entered into under this section by any union or association or person may be signed on behalf of that union or association or person by
35 a duly authorised agent of that union or association or person.”

9. Composite agreements—(1) The principal Act is hereby amended by repealing section 66 (as amended by section 3 of the Industrial Relations Amendment Act 1975), and substituting the following heading and section:

40 *“Composite Bargaining*

“66. (1) For the purposes of this section, the expression ‘composite agreement’ means any collective agreement made in voluntary settlement of a dispute of interest between one

or more employers in any undertaking or group of undertakings and a number of unions or associations representing workers engaged upon different trades or callings within the undertaking or group of undertakings.

“(2) Section 65 of this Act shall apply, with the necessary modifications, to a composite agreement. 5

“(3) If there are issues on which the parties fail to agree, the Court may hear and determine those issues if the parties, by agreement in writing, refer those issues to the Court.

“(4) The determinations of the Court on issues referred to it under **subsection (3)** of this section shall be treated as if they were part of the voluntary settlement of the dispute. 10

“(5) The Court shall not register a composite agreement unless it contains provision for the setting up of effective machinery— 15

“(a) For the final and conclusive settlement of all disputes of rights; and

“(b) For the setting up of effective machinery to deal with personal grievances.

“(6) Where the effective machinery provided pursuant to **subsection (5)** of this section includes a right of appeal to a court, that court shall be the Arbitration Court. 20

“(7) A composite agreement shall take effect according to its tenor and shall prevail over any award or any collective agreement applying to the workers engaged in the undertaking or group of undertakings to which the composite agreement relates, so far as there is any inconsistency between the composite agreement and the award or the collective agreement. 25

“(8) During the currency of any composite agreement or while any composite agreement is continuing in force under section 92 (5) of this Act, any employer in any undertaking or group of undertakings to which the composite agreement relates, or any union or association representing workers engaged upon any trade or calling within that undertaking or group of undertakings, may become parties to the composite agreement if the employers who, and the unions or associations of workers which, are existing parties to the composite agreement so agree in writing. 30 35

“(9) Parties joined under **subsection (8)** of this section shall become parties to the composite agreement as from the date of the filing with the Registrar of the Court of a notice of joinder signed on behalf of the employers who, and the unions or associations of workers which, are, immediately before the filing of that notice, the existing parties to the composite agreement. 40 45

“(10) Any notice of joinder filed under **subsection (9)** of this section may be signed on behalf of any union or association or person by a duly authorised agent of that union or association or person.

5 “(11) Any union or association representing workers engaged upon any trade or calling within any undertaking or group of undertakings to which a composite agreement relates may at any time withdraw from the composite agreement by giving to one or more of the employers in the undertaking or group
10 of undertakings at least 7 days’ notice in writing of its intention so to withdraw.

“(12) If on the expiration of the period of notice given under **subsection (11)** of this section, the composite agreement is still in force (otherwise than under section 92 (5) of this Act), the
15 composite agreement shall, on the expiration of the term of the composite agreement, cease to be binding on the union or association that gave the notice and cease to prevail over any award or collective agreement applying to the workers whom the union or association represents.

20 “(13) If on the expiration of the period of notice given under **subsection (11)** of this section, the composite agreement is continuing in force under section 92 (5) of this Act, the composite agreement shall, on the expiration of that period of notice, cease to be binding on the union or association that
25 gave the notice and cease to prevail over any award or collective agreement applying to the workers whom the union or association represents.

“(14) Where, during the negotiating for any composite agreement, any claim in respect of any matter is raised and
30 finally disposed of, no party to the composite agreement shall, in relation to employment that is subject to that composite agreement, make that claim a subject of dispute.

“(15) Notwithstanding that it is not an industrial union, the New Zealand Institute of Marine and Power Engineers
35 incorporated under the Marine and Power Engineers’ Institute Incorporation Act 1925 may become a party to a composite agreement applying to the maritime industry as if it were an industrial union.”

(2) Section 3 of the Industrial Relations Amendment Act 1975
40 is hereby consequentially repealed.

10. Dispute of interest to be referred in first instance to conciliation council—Section 67 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

45 “(2) Nothing in this section limits the provisions of **subsections (2A) and (2B)** of section 65 or of **subsections (3) and (4)** of section 66 of this Act.”

11. Conciliated settlement—(1) Section 82 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

“(1A) The assessors shall prepare, and give to the conciliator, a memorandum stating—

“(a) Whether or not the implementation of the terms of the settlement will effect any increase in any rate of wages or other remuneration or any other significant change in conditions of employment; and

“(b) If the implementation of the terms of settlement will effect such an increase or change, identifying the reasons for the increase, and, if possible, in the case of such an increase, quantifying the components that make up the increase.

“(2) The terms of settlement, together with a copy of the memorandum required by **subsection (1A)** of this section, shall be given by the conciliator to each of the central organisations, to the representatives of the parties, and to the Registrar of the Court.

“(2A) When the Registrar of the Court has received both the terms of settlement and a copy of the memorandum required by **subsection (1A)** of this section, the Court shall embody the terms of settlement in a collective agreement and register it.

“(3) A copy of every collective agreement registered under this section, together with a copy of the memorandum required by **subsection (1A)** of this section, shall be deposited in the office of the Court. Both a copy of the agreement and a copy of the memorandum shall be forwarded by the Registrar to each of the central organisations, to the representatives of the parties, and to the Secretary of Labour.”

(2) Section 82 of the principal Act is hereby amended by inserting, after subsection (7), the following subsection:

“(7A) Any application made under subsection (5) or subsection (6) of this section by any union or association or employer may be signed on behalf of that union or association or employer by a duly authorised agent of that union or association or employer.”

12. Subsequent parties to agreement—Section 83 (1) of the principal Act is hereby amended by inserting, after the word “industry”, the words “or industries”.

13. Power to add parties outside locality of award or collective agreement—Section 83A (1) of the principal Act (as inserted by section 12 of the Industrial Relations Amendment Act (No. 2) 1976) is hereby amended by inserting, after the word “industry”, the words “or industries”.

14. Reference of unsettled dispute to Court—The principal Act is hereby amended by repealing section 84, and substituting the following section:

5 “84. (1) If a dispute of interest is not settled, the conciliator shall—

“*(a)* If the parties agree, refer the dispute to the Court for settlement; or

“*(b)* If the parties do not agree to the reference of the dispute to the Court for settlement, adjourn the proceedings.

10 “(2) Where **subsection (1) (a)** of this section applies, the conciliator shall deliver to the Registrar of the Court—

“*(a)* A record of the inquiry conducted by the conciliation council; and

15 “*(b)* If a partial settlement has been reached, a memorandum of that settlement, which memorandum shall be signed—

“*(i)* By the assessors appointed on behalf of the applicants or the duly authorised agent of those assessors; and

20 “*(ii)* By the assessors appointed on behalf of the respondents or the duly authorised agent of those assessors.

“*(3)* Where **subsection (1) (b)** of this section applies, the conciliator shall forthwith report on the matter to the Court; and, notwithstanding anything in section 76 of this Act, once the proceedings have been adjourned under **subsection (1) (b)** of this section neither party may withdraw from the proceedings before the conciliation council.

30 “*(4)* Where the Court receives a record under **subsection (2)** of this section or a report under **subsection (3)** of this section, the Court shall forthwith call the parties to a meeting, which meeting shall be for the purpose of determining the most appropriate method of resolving the dispute.

35 “*(5)* The Court, after giving the parties the opportunity to make submissions, may do all or any of the following:

“*(a)* Notwithstanding anything in section 64 (5) of this Act, refer the dispute to a mediator, who shall not have any power to hear and determine the dispute or any matter at issue in the dispute:

40 “*(b)* Refer the dispute back to the conciliator for further hearings by the conciliation council:

“*(c)* Consult each of the central organisations with a view to ascertaining whether they could assist in resolving the dispute:

45 “*(d)* With the consent of the parties, hear and determine the dispute by making an award.

“(6) Notwithstanding anything in section 53 of this Act, the jurisdiction of the Court under **subsection (4)** or **subsection (5)** of this section may, in any case where a Judge considers it necessary that that jurisdiction be exercised urgently in relation to the dispute, be exercised by that Judge alone. 5

“(7) Where the Court hears and determines the dispute under **subsection (5) (d)** of this section, the Court shall give in writing its reasons for the making of the award.

“(8) Where the reference of the dispute under **subsection (5) (a)** or **subsection (5) (b)** of this section or the undertaking of a consultation under **subsection (5) (c)** of this section in relation to a dispute is not successful in resolving the dispute, the parties shall report that fact to the Court, which shall thereupon both deem the dispute to be withdrawn and dissolve the conciliation council. 10 15

“(9) Any agreement entered into for the purposes of this section by the applicants or the respondents may be signed on behalf of the applicants by a duly authorised agent of the applicants and on behalf of the respondents by a duly authorised agent of the respondents.” 20

15. Criteria—The principal Act is hereby amended by inserting, after section 86, the following section:

“86A. (1) The Court, in making an award under section 86 of this Act or in refusing to make an award under that section, shall have regard to— 25

“(a) The supply and demand factors for the skills of the workers covered by the award; and

“(b) The need for fairness and equity in the rates of pay and conditions of employment for the work covered by the award; and 30

“(c) Any changes in the content of any job or in the skills, duties, or responsibilities of positions covered by the award; and

“(d) Any changes in productivity arising from, for example, the introduction of new technology; and 35

“(e) Relativities within the award, and between the award and other awards and agreements.

“(2) In applying the criteria, the Court—

“(a) Shall not be bound by historical precedent and practice of any sort; and 40

“(b) Shall consider whether relativities or conditions of employment should be changed to take account of factors that are specific to the work covered by the award.”

16. Provision for disputes of rights—(1) The principal Act is hereby amended by repealing section 115 (as amended by section 18 of the Industrial Relations Amendment Act (No. 2) 1976), and substituting the following section:

5 “115. (1) Every award made or collective agreement registered after the commencement of the **Wage Fixing Reform Act 1984** shall, subject to **subsections (2), (3), and (7) of this section**, contain a clause for the final and conclusive settlement, without stoppage of work, of all disputes of rights, including differences
10 between the persons bound by the award or agreement concerning its interpretation, application, or operation.

“**(2)** Where the clause required by **subsection (1)** of this section confers a right of appeal to a court, that court shall be the Arbitration Court.

15 “**(3)** Where the parties fail to agree on the form of the clause required by **subsection (1)** of this section, the Court shall, in making the award, insert into the award the clause set out in section 116 of this Act.

20 “**(4)** The clause set out in section 116 of this Act shall be deemed to be inserted in every award or collective agreement made before the commencement of the **Wage Fixing Reform Act 1984** and for the time being in force; and it shall prevail over any provision in any award or collective agreement that is inconsistent with any provision of the clause.

25 “**(5)** Notwithstanding anything in **subsection (4)** of this section, where before the commencement of the **Wage Fixing Reform Act 1984** the Court has in its discretion approved for the purposes of any award or collective agreement made before the commencement of that Act and for the time being in force,
30 any other clause agreed to by the parties and containing a procedure for the settlement of disputes of rights, the clause so approved (as inserted or deemed to be inserted in the award or collective agreement) shall have effect according to its tenor.

35 “**(6)** Where any party to a dispute of rights fails to observe the procedure laid down in the clause set out in section 116 of this Act or in any other clause inserted in the award or collective agreement pursuant to this section, any party to the dispute may refer it to the Arbitration Court for settlement.

40 “**(7)** Nothing in this section applies in respect of any composite agreement under **section 66** of this Act registered after the commencement of the **Wage Fixing Reform Act 1984**.”

(2) Section 18 of the Industrial Relations Amendment Act (No. 2) 1976 is hereby consequentially repealed.

17. Settlement of personal grievances—(1) Section 117 (2) of the principal Act is hereby amended by inserting, after the word “shall”, the words “, subject to **subsections (2A), (3), and (8)** of this section,”.

(2) Section 117 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections: 5

“(2A) Where the provision required by subsection (2) of this section confers a right of appeal to a court, that court shall be the Arbitration Court. 10

“(3) Where the parties fail to agree on the form of the provision required by subsection (2) of this section, the Court shall, in making the award, include in the award the standard procedure set out in subsection (4) of this section.”

(3) Section 117 of the principal Act is hereby amended by adding the following subsection: 15

“(8) Nothing in this section applies in respect of any composite agreement under **section 66** of this Act registered after the commencement of the **Wage Fixing Reform Act 1984**.”

(4) Notwithstanding anything in this section, where before the commencement of this Act any provision has been included, or is deemed to be included, pursuant to section 117 of the principal Act (as it stood immediately before the commencement of this Act) in any award or collective agreement made before the commencement of this Act and for the time being in force, that provision shall have effect according to its tenor. 20 25

18. Transitional provision in respect of acting nominated members—(1) Every person holding office immediately before the commencement of this Act as an acting nominated member of the Arbitration Court appointed under section 42 of the principal Act (as it stood immediately before the commencement of this Act) on the nomination of the central organisation of employers—

(a) Shall, without further appointment, be deemed as from the commencement of this Act to have been appointed under **section 42 (a)** of the principal Act (as enacted by **section 6** of this Act) as an acting nominated member of the Court; and 35

(b) Shall, subject to **sections 46 and 47** of this Act (as enacted by **section 6** of this Act), hold office as an acting nominated member of the Arbitration Court for the residue of the term for which he was last appointed as an acting nominated member of the Arbitration Court. 40 45

(2) Every person holding office immediately before the commencement of this Act as an acting nominated member of the Arbitration Court appointed under section 42 of the principal Act (as it stood immediately before the commencement of this Act) on the nomination of the central organisation of workers—

(a) Shall, without further appointment, be deemed as from the commencement of this Act to have been appointed under section 42 (b) of the principal Act (as enacted by section 6 of this Act) as an acting nominated member of the Court; and

(b) Shall, subject to sections 46 and 47 of this Act (as enacted by section 6 of this Act), hold office as an acting nominated member of the Arbitration Court for the residue of the term for which he was last appointed as an acting nominated member of the Arbitration Court.

PART II

AMENDMENT TO AGRICULTURAL WORKERS ACT 1977

19. 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).

*1977, No. 43

Amendments: 1977, No. 106; 1979, No. 73; 1980, No. 78; 1981, No. 8; 1982, No. 137; 1983, No. 61; 1983, No. 106

20. Criteria—The principal Act is hereby amended by inserting, after section 33, the following section:

“33A. (1) The Tribunal, in making an award or declining to make an award, shall have regard to—

“(a) The supply and demand factors for the skills of the workers covered by the award; and

“(b) The need for fairness and equity in the rates of pay and conditions of employment for the work covered by the award; and

“(c) Any changes in the content of any job or in the skills, duties, or responsibilities of positions covered by the award; and

“(d) Any changes in productivity arising from, for example, the introduction of new technology; and

“(e) Relativities within the award, and between the award and other awards (including awards within the meaning of the Industrial Relations Act 1973) and

agreements (being collective agreements registered under section 82 of the Industrial Relations Act 1973).

- “(2) In applying the criteria, the Tribunal—
 “(a) Shall not be bound by historical precedent and practice of any sort; and 5
 “(b) Shall consider whether relativities or conditions of employment should be changed to take account of factors that are specific to the work covered by the award.” 10

PART III

AMENDMENT TO AIRCREW INDUSTRIAL TRIBUNAL ACT 1971

21. 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* 15
 (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; 1982, No. 136; 1983, No. 107

22. Criteria—The principal Act is hereby amended by inserting, after section 39, the following section:

- “39A. (1) The Tribunal, in making an award or in declining to make an award, shall have regard to— 20
 “(a) The supply and demand factors for the skills of the workers covered by the award; and
 “(b) The need for fairness and equity in the rates of pay and conditions of employment for the work covered by the award; and 25
 “(c) Any changes in the content of any job or in the skills, duties, or responsibilities of positions covered by the award; and
 “(d) Any changes in productivity arising from, for example, the introduction of new technology; and 30
 “(e) Relativities within the award, and between the award and other awards (including awards within the meaning of the Industrial Relations Act 1973) and agreements (being collective agreements registered under section 82 of the Industrial Relations Act 1973). 35
 “(2) In applying the criteria, the Tribunal—
 “(a) Shall not be bound by historical precedent and practice of any sort; and
 “(b) Shall consider whether relativities or conditions of employment should be changed to take account of factors that are specific to the work covered by the award.” 40

PART IV

AMENDMENT TO WATERFRONT INDUSTRY ACT 1976

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

*1976, No. 72

Amendments: 1977, No. 150; 1980, No. 26; 1982, No. 145; 1983, No. 113

24. Criteria—(1) The principal Act is hereby amended by inserting, after section 15A (as inserted by section 3 of the Waterfront Industry Amendment Act 1983), the following
10 section:

“15B. (1) The Tribunal, in making a principal order or in declining to make a principal order, shall have regard to—

15 “(a) The supply and demand factors for the skills of the workers covered by the principal order; and

“(b) The need for fairness and equity in the rates of pay and conditions of employment for the work covered by the principal order; and

20 “(c) Any changes in the content of any job or in the skills, duties, or responsibilities of positions covered by the principal order; and

“(d) Any changes in productivity arising from, for example, the introduction of new technology; and

25 “(e) Relativities within the principal order, and between the principal order and awards (including awards within the meaning of the Industrial Relations Act 1973) and agreements (being collective agreements registered under section 82 of the Industrial Relations Act 1973).

“ (2) In applying the criteria, the Tribunal—

30 “(a) Shall not be bound by historical precedent and practice of any sort; and

35 “(b) Shall consider whether relativities or conditions of employment should be changed to take account of factors that are specific to the work covered by the principal order.”

(2) Section 15 (2) of the principal Act is hereby consequentially amended by omitting the expression “section 14 (2)”, and substituting the expression “sections 14 (2) and 15B”.