

New Zealand.



ANALYSIS.

Title.

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1932, No. 4.

AN ACT to amend the Industrial Conciliation and Arbitration Act, 1925. Title
[27th April, 1932.]

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

1. This Act may be cited as the Industrial Conciliation and Arbitration Amendment Act, 1932, and shall be read together with and deemed part of the Industrial Conciliation and Arbitration Act, 1925 (hereinafter referred to as the principal Act). Short Title.

Power to
appoint
additional
Conciliation
Commissioners.

2. Section forty of the principal Act is hereby amended by inserting after subsection four the following subsection:—

“(4A) Notwithstanding anything to the contrary in the foregoing provisions of this section, the Governor-General may from time to time appoint such number of additional Commissioners as he thinks fit, who shall receive such fees or other remuneration as may be prescribed by regulations under this Act. Every such appointment shall be made for a specified period not exceeding twelve months, and, except as provided in this subsection, shall have the same effect in all respects as if it had been made under subsection one of this section.”

Increasing
maximum
number of
assessors on
Councils of
Conciliation.

3. (1) Section forty-one of the principal Act is hereby amended by omitting from paragraph (e) of subsection five the words “(being either one, two, or three)” and substituting the words “(being not more than four)”.

(2) Section fifty-eight of the principal Act is hereby amended by omitting from subsection five the word “six” and substituting the word “seven”.

Section 106 of
principal Act
amended.

4. Section one hundred and six of the principal Act is hereby amended by omitting the words “connected with that industry in the locality to which the proceeding relates”.

Terms of
settlement
effected by
Conciliation
Council to be
signed by
assessors and to
operate as
industrial
agreement.

5. (1) If a settlement of an industrial dispute is arrived at in the course of an inquiry before a Council of Conciliation, the terms of the settlement shall be set forth in writing signed by all the assessors, and shall thereupon be filed in the office of the Clerk of Awards as if it were an industrial agreement duly executed by all the parties to the dispute (including parties joined by the Commissioner pursuant to section forty-nine of the principal Act), and shall thereafter be deemed to be and shall operate as an industrial agreement.

Repeal.

(2) Section fifty of the principal Act is hereby repealed.

Objections to
agreement filed
under last
preceding
section.

6. (1) At any time within one month after notification has been received of the terms of any agreement filed in accordance with the last preceding section, any employer, trade-union, industrial union, or industrial association bound thereby may apply to the Court for total or partial exemption from such agreement, and the Court may grant such exemption accordingly or may refuse to grant exemption.

(2) The fact that application for exemption from the terms of an agreement has been made under this section and has not been disposed of shall not relieve any person or any union or association from his or its obligation to conform to the agreement :

Provided that where application for total or partial exemption from the operation of an agreement to which this section refers is made as aforesaid by any employer, trade-union, industrial union, or industrial association that was not bound by, or that was wholly or partially exempted from, the provisions of any former award or industrial agreement for which the first-mentioned agreement has been substantially substituted, such employer, trade-union, industrial union, or industrial association, as the case may be, shall, pending the determination of the Court on the application for exemption, be exempt from the operation of the said agreement to the same extent, as nearly as may be, as he or it was exempt from the operation of the former award or industrial agreement.

7. (1) If a settlement of an industrial dispute is not arrived at in the course of an inquiry before a Council of Conciliation, the dispute shall be referred to the Court for settlement if the following conditions are complied with, but not otherwise, namely :—

Provisions governing reference of disputes to Court.

(a) In the case of a dispute to which section forty-one of the principal Act applies—

(i) Where there are four assessors on each side, if at least three of the assessors on each side vote in favour of a proposal that the dispute be so referred :

(ii) Where there are less than four assessors on each side, if all the assessors vote in favour of a proposal that the dispute be so referred.

(b) In the case of a dispute to which section fifty-eight of the principal Act applies—

(i) Where there are six or more assessors on each side, if at least five of the assessors on each side vote in favour of a proposal that the dispute be so referred :

(ii) Where there are less than six assessors on each side, if all the assessors vote in favour of a proposal that the dispute be so referred.

(2) If a proposal that the dispute be referred to the Court for settlement is not carried when first submitted in accordance with the foregoing provisions, the Council may decide, by a majority thereof, to adjourn the proceedings for such period as it thinks fit, not exceeding fourteen days, to allow of the matters in dispute being further considered by the parties thereto. If on the resumption of proceedings after such adjournment the Council is unable to arrive at a settlement of the dispute, a proposal that the dispute be referred to the Court for settlement shall be again submitted.

(3) Without limiting the provisions of section fifty-three of the principal Act, the Commissioner shall, in accordance with that section, forthwith notify the Clerk of Awards that a settlement of the dispute has not been arrived at in any of the cases following, namely :—

(a) If within thirty days after its first meeting the Council has not—

(i) Arrived at a settlement of the dispute ;

or

(ii) Adopted a proposal that the dispute be referred to the Court for settlement ; or

(iii) Adjourned the proceedings in accordance with the provisions in that behalf of the last preceding subsection ; or

(b) If, where the proceedings have been adjourned as hereinbefore provided, the Council has not within five days after the date fixed for the resumption of proceedings either arrived at a settlement of the dispute or adopted a proposal that the dispute be referred to the Court for settlement.

(4) On the expiration of one month from the date of the Commissioner's notification to the Clerk of Awards as aforesaid, every award or industrial agreement theretofore binding on the parties to the dispute in connection with the industry to which the dispute relates shall, notwithstanding anything to the contrary in section twenty-eight or section eighty-nine of the principal Act, but subject to the provisions of the next succeeding subsection, be deemed to be cancelled, and shall thereupon cease to be in force.

(5) In the case of a dispute in any industry or industries where any female workers are employed, the Clerk of Awards, on receipt of a notification from the Commissioner as mentioned in the last preceding subsection, shall at the request of any union or industrial association representing such female workers apply to the Court for an order fixing the minimum rates of wages that may be paid to female workers in the industry or industries to which the dispute relates, and the Court, after hearing the parties, shall make an order accordingly, which shall operate and be enforceable as an award, and shall continue in force for such period, being not less than six months and not more than twelve months, as may be specified therein in that behalf. Notwithstanding anything to the contrary in the last preceding subsection, the rates of wages for female workers fixed in any award or industrial agreement in force when an application for an order in respect of such workers is made under this subsection shall continue in force until such order is made.

(6) The principal Act is hereby consequentially amended as follows:—

Consequential amendments of principal Act.

(a) By repealing sections fifty-one and fifty-seven thereof:

(b) By omitting from subsection six of section fifty-eight thereof the words "If a full settlement of the dispute is not effected by the Council the dispute shall be referred to the Court for settlement, and" and substituting therefor the words "Where a dispute to which this section applies is referred to the Court for settlement".

8. (1) Where at the passing of this Act a dispute has been referred to the Court for settlement pursuant to section fifty-seven or section fifty-eight of the principal Act but an award in respect thereof has not been made, the Court shall forthwith after the passing of this Act refer the dispute back to the Commissioner, who shall thereupon cause the same to be dealt with in the same manner in all respects as if an application in respect thereof had, after the passing of this Act, been made under section forty-one or section fifty-eight of the said Act, as the case may be.

Provision for reference back to Conciliation Council of disputes in respect of which an award has not yet been made.

(2) Where application for the hearing of a dispute by a Council of Conciliation has been made before the passing

of this Act, but has not then been finally disposed of either by settlement or by reference to the Court, the proceedings shall be continued and completed as if this Act were in force at the time when the application was made. Any amendment of the proceedings necessary to give effect to this subsection shall be made by the Commissioner on the application of any party thereto.

9. (1) Notwithstanding anything to the contrary in the principal Act, any industrial union, industrial association, or employer bound by an award or industrial agreement in force at the passing of this Act may make application for a new award or agreement in lieu thereof in any case where the award or agreement has been in force at the date of the application for not less than six months, and at that date has an unexpired term of not less than three months.

(2) Every such application shall be dealt with in all respects as if it were an application in respect of an industrial dispute under section forty-one or section fifty-eight of the principal Act, as the case may require.

(3) If as a result of such application a new award or industrial agreement is not made, the existing award or agreement shall be deemed to be cancelled in accordance with the provisions of subsection four of section seven hereof.

10. Section ninety of the principal Act is hereby repealed.

11. (1) In any award or industrial agreement made after the passing of this Act provision may be made for the payment of any workers at piece rates. For the purposes of this section every provision for the computation of wages by reference to the amount of work done shall be deemed to be provision for payment at piece rates.

(2) If in any award or industrial agreement made before or after the passing of this Act any provision is made purporting to restrict or prohibit the payment of workers at piece rates, such provision shall be void and of no effect.

(3) Notwithstanding that in any award or industrial agreement, whether made before or after the passing of this Act, no provision is made for payment of workers at piece rates, any employer may agree with a worker on a system of piecework payment, provided that any

Provision for review of existing awards and industrial agreements.

Repeal.

Provisions as to payment for piecework.

such agreement shall clearly set out the system of payment, and provided also that no worker shall thereby receive less than the minimum rates of wages provided in any such award or industrial agreement.

(4) The terms of any agreement made in accordance with the last preceding subsection between an employer and a worker employed by him shall be set forth in writing, signed by the parties thereto, and a copy of the agreement shall forthwith be forwarded by the employer to the local Inspector of Awards.

12. (1) Unless in the circumstances of any case the Court considers that the provisions of this section are not applicable thereto, it shall in every award made after the passing of this Act make provision for the setting-up, by mutual arrangement of the parties, of an Industrial Committee to be representative of the employers and workers engaged or employed in the industry or industries to which the award relates in the district or districts in which it is operative. Any such Committee may also be set up in accordance with the provisions of any industrial agreement that may be made after the passing of this Act.

Provision for appointment of Industrial Committees.

(2) It shall be the function of an Industrial Committee to promote the harmonious working of the award or agreement, and for that purpose to assist in the settlement of any disputes that may arise thereunder, not being questions affecting rates of pay or hours of work.

(3) The Industrial Committee shall also be required to take into consideration any matters relevant to but not dealt with in the award or agreement that may be submitted for its consideration by any party thereto, and shall take all reasonable steps to settle any disputes or questions that may arise in connection therewith.

13. Nothing in any award or industrial agreement in force at the passing of this Act or hereafter in force shall apply with respect to any works carried on in relief of unemployment in accordance with the provisions of the Unemployment Act, 1930, or in accordance with any scheme in operation thereunder, or shall apply to any worker for the time being employed on any such works.

Awards not applicable to relief works under Unemployment Act.

14. If, in any action commenced before or after the passing of this Act for the recovery by any worker of the wages or any part of the wages payable to him for any period under any award referred to in the Schedule

Special provisions as to certain existing awards affecting employment of musterers.

hereto, the Court before which such action is brought is satisfied that the worker voluntarily accepted or agreed to accept a less rate of wages than the rate fixed by the award, then, notwithstanding anything to the contrary in the principal Act, the worker shall not be entitled to recover any part of the difference between the wages so accepted or agreed to be accepted by him and the wages payable under the award for the same period, nor shall any action lie for the breach of any such award in so far as such breach consists of a failure to pay the rate of wages fixed by the award, if the Court is satisfied that payment at the rate agreed upon as aforesaid has been voluntarily accepted by the worker or has been tendered to him.

Schedule.

SCHEDULE.

AWARDS OF COURT OF ARBITRATION TO WHICH SECTION 14 OF THIS ACT RELATES.

Title of Award.	Date.	Reference to Published Awards.
(1) Canterbury Musterers, Packers, and Drovers award.	11th December, 1929.	Vol. xxix, p. 834.
(2) Otago and Southland Musterers, Packers, and Drovers award.	5th February, 1930.	Vol. xxx, p. 53.
(3) Marlborough Musterers, Packers, and Drovers award.	31st October, 1930.	Vol. xxx, p. 850