

New Zealand.



ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Amalgamation of industrial unions. 3. Provisions as to all applications and as to disputes pending. 4. Case may be stated for Supreme Court. 5. Section 81 of principal Act amended. 6. Section 84 of principal Act amended. 7. Section 90 of principal Act amended. 8. Repeal. Workers to whom award to extend. | <ol style="list-style-type: none"> 9. Court may add parties to an award. 10. Section 107 of principal Act amended. 11. Court may make rules. 12. Awards to continue in force when portion of district severed. 13. Permit to work at less than minimum wage. 14. Matters agreed on need not be proved before Court. 15. Provisions in case of strike or lock-out. 16. When worker deemed dismissed. |
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1905, No. 56.

AN ACT to amend "The Industrial Conciliation and Arbitration Act, 1905." Title.
[31st October, 1905.]

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

1. The Short Title of this Act is "The Industrial Conciliation and Arbitration Amendment Act, 1905"; and it shall form part of and be read together with "The Industrial Conciliation and Arbitration Act, 1905" (hereinafter referred to as "the principal Act"). Short Title.

2. (1.) Whenever two or more industrial unions in the same industrial district connected with the same industry desire to amalgamate so as to form one union and carry out such desire by registering a new industrial union, the Registrar shall place upon the certificate of registration of such new union a memorandum of the names of the unions whose registration is shown to his satisfaction to have been cancelled in consequence of such amalgamation and registration. Amalgamation of industrial unions.

(2.) Where there is more than one award in force relating to that industry within the same industrial district or any part thereof the Court, on the application of any party to any such award, may by order adjust the terms of such awards, and such order shall have effect as if it were a new award.

(3.) Until such order is made such amalgamation shall not have effect.

Provisions as to all applications and as to disputes pending.

3. The following provisions shall have effect both with reference to applications and disputes pending at the date of the passing of this Act and to applications hereafter filed:—

- (a.) The Court may at or before the hearing of any dispute take steps to ascertain whether all persons who ought to be bound by its award have been cited to attend the proceedings.
- (b.) Whenever the Court is of opinion, whether from the suggestion of parties or otherwise, that all such persons have not been cited it may direct that further parties be cited, and may postpone the hearing of the dispute until such time as it may conveniently be heard; and in such case the time for making the award under section eighty-eight of the principal Act shall not be deemed to commence to run until such direction has been complied with.
- (c.) Whenever the Court is satisfied, by means of a statutory declaration of the secretary or president of any industrial union or industrial association, or of any employer, or by any other means that the Court thinks sufficient, that reasonable steps have been taken by the applicant to cite all persons known to the applicant to be engaged in the industry to which the proposed award is intended to apply, but is of opinion that it is probable that further parties ought to be bound who, from their being numerous, or widely scattered, or otherwise, could not reasonably have been cited personally, the Court, or, when it is not sitting, the President, may by order fix a day for the hearing, and give public notice thereof by advertisement or otherwise in such places and for such time or otherwise in such manner as it by such order determines. Such notice shall state the time and place of the intended sitting and the industry affected by the proposed award. The aforesaid order of the Court or President shall be conclusive evidence that it was made upon proper grounds, and a recital or statement in an award that such an order has been made shall be conclusive evidence of the fact.
- (d.) The cost of such notice shall be ascertained by the Clerk of Awards, and paid to him by the applicant before the same is incurred.
- (e.) Proof of the giving of such notice shall be sufficient proof of notice of the proceedings to every person, whether employer or worker, connected with or engaged in the industry to which the proceedings relate in the industrial district or the part thereof to which the award is intended to apply; and every such person, whether an original party to the proceedings or not, shall be entitled to be heard, and shall be bound by the award when made.
- (f.) The fixing of a date for the hearing shall not deprive the Court of its power to adjourn the hearing; but any person who desires to have any adjournment notified to him may send intimation to that effect to the Clerk of Awards, who

shall enter his name and address in a book to be kept for that purpose, and thereafter keep him informed of any adjournment or postponement of the hearing.

(g.) Any person may be made a party to an application by the applicant without an order of the Court at any time not being less than seven days before the hearing of a dispute, and the Court shall determine whether such person should properly be made a party to the award.

4. The President is hereby empowered to state a case for the opinion of the Supreme Court, or otherwise to obtain the opinion of the said Court or a Judge or Judges thereof, respecting any question touching the jurisdiction of the Court or of any Board of Conciliation or special Board.

Case may be stated for Supreme Court.

5. Paragraph (h) of section eighty-one of the principal Act is amended by striking out the word "or," and adding after the word "Clerk" the words "or any other person acting under the express or implied direction of the Court."

Section 81 of principal Act amended.

6. Section eighty-four of the principal Act is amended by repealing the word "Registrar," and substituting in lieu thereof the word "Clerk."

Section 84 of principal Act amended.

7. Subsection (d) of section ninety of the principal Act is hereby amended by inserting after the words "until a new award has been duly made" the words "or an industrial agreement entered into."

Section 90 of principal Act amended.

8. Subsection two of section ninety-two of the principal Act is hereby repealed, and the following substituted in lieu thereof:—

Repeal.

"(2.) The award, by force of this Act, shall also extend to and bind every worker who is at any time whilst it is in force employed by any employer on whom the award is binding; and if such worker commits any breach of the award he shall be liable to a fine not exceeding ten pounds, to be recovered in like manner as if he were a party to the award. This provision shall be deemed to have been in force from the passing of 'The Industrial Conciliation and Arbitration Act, 1900.'"

Workers to whom award to extend.

9. (1.) Notwithstanding anything to the contrary in the principal Act, the Court shall have full power, upon being satisfied that reasonable notice has been given of any application in that behalf, to add any party or parties to any award; and thereupon any such party or parties shall be bound by the provisions thereof, subject to any condition or qualification contained in the order adding such party or parties.

Court may add parties to an award.

(2.) Orders adding parties heretofore made by the Court shall be valid as if made in exercise of the foregoing power, whether made in pursuance of a reservation in the award or not.

10. Section one hundred and seven of the principal Act is hereby amended by repealing paragraph (c) and substituting in lieu thereof the following paragraph:—

Section 107 of principal Act amended.

"(c.) The dismissal or suspension of any worker or the discontinuance of work by any worker pending the final disposition of an industrial dispute shall be deemed to be a default under this section, unless the party charged with

such default satisfies the Court that such dismissal, suspension, or discontinuance was not on account of the dispute."

Court may make rules.

11. The Court shall have power to make rules for the purpose of regulating the practice and procedure of the Court, and the proceedings of parties; provided that such rules shall not conflict with regulations made under section one hundred and twenty-two of the principal Act.

Awards to continue in force when portion of district severed.

12. Whenever any portion of a district is severed therefrom, and either added to another district or constituted a new district or part of a new district, every award and industrial agreement in force in the district from which such portion is severed shall, so far as it is in force in such portion, remain in force therein until superseded by another award or industrial agreement.

Permit to work at less than minimum wage.

13. Where in any award provision is made for the issue of a permit to any worker to accept a wage below that prescribed for ordinary workers in the trade to which the award relates the following provisions shall apply:—

- (a.) The application for a permit shall be in writing, signed by the applicant, and addressed to the person authorised by the award to issue the same.
- (b.) Such person shall fix a time and place for the hearing of such application, being not later than two days after the receipt by him of the application, and shall give notice of such time and place to the secretary of the industrial union of workers in the trade to which the award relates.
- (c.) Such notice shall be in writing, and may be delivered to the secretary personally or left at the registered office of the industrial union within twenty-four hours after the receipt of the application.
- (d.) Such secretary, or some other person appointed in that behalf by the union, shall be afforded an opportunity to attend the hearing so as to enable the union to express its views upon the application.

Matters agreed on need not be proved before Court.

14. On the hearing before the Court of any industrial dispute the Court may, if it thinks fit, dispense with any evidence on any matter on which all parties to the dispute have agreed in writing either as an industrial agreement or by memorandum before the Board.

Provisions in case of strike or lock-out.

15. (1.) Any industrial union or industrial association or employer, or any worker, whether a member of any such union or association or not, which or who shall strike or create a lock-out, or take part in a strike or lock-out, or propose, aid, or abet a strike or lock-out or a movement intended to produce a strike or lock-out, shall be guilty of an offence, and shall be liable to a fine, and may be proceeded against in the same manner as if it or he were guilty of a breach of an award:

Provided that the fine shall not exceed one hundred pounds for any such offence in the case of a union, association, or employer, or ten pounds in the case of a worker.

(2.) No worker shall be subject to a fine merely because he refuses to work, or announces his intention to refuse to work, at the rate of wages fixed by any award or industrial agreement, unless the Court is satisfied that such refusal was in pursuance of an intention to commit a breach of this section.

(3.) This section shall only apply when there is an award or industrial agreement relating to the trade in connection with which such strike or lock-out has occurred or is impending in force in the district where the alleged offence is committed, or some part thereof.

(4.) The Court may accept any evidence that seems to it relevant to prove that a strike or lock-out has taken place or is impending.

(5.) When it is alleged in any application made by any person empowered by law to enforce an award that a strike or lock-out was taking place or is impending the Court may, after the President has appointed a special date for the hearing of evidence respecting the same, issue summonses to all persons and bodies suspected of having committed offences hereunder, and may deal with any such person or body as if specifically charged with the offences alleged.

(6.) Such summonses may be served by registered letter or otherwise in the same manner in which summonses or notices may be served in connection with the enforcement of an award.

16 In any proceedings before the Court relating to the dismissal of a worker, a worker shall be deemed to be dismissed when he is suspended for a longer period than ten days.

When worker
deemed
dismissed.