

## INDUSTRIAL LAW REFORM BILL

### EXPLANATORY NOTE

THIS Bill makes a number of important amendments to the industrial law. Its main aim is to achieve a fair measure of consistency between decisions of the various wage settlement tribunals by means of a degree of common membership. The principal Acts affected by the Bill are the Industrial Relations Act 1973, the Aircrew Industrial Tribunal Act 1971, the Waterfront Industry Act 1976, and the Agricultural Workers Act 1977.

The major changes are as follows:

- (a) A new Arbitration Court is established which takes over the functions of both the Industrial Commission and the Industrial Court.
- (b) The Arbitration Court is to consist of not less than 3 Judges plus two or more sets of nominated members. One of the Judges is to be appointed Chief Judge of the Court. He will assign duties to all members. The present Judge of the Industrial Court is to become the first Chief Judge of the new Court. (The present Industrial Commission consists of 5 members and the present Industrial Court consists of 1 judge and 1 set of nominated members).
- (c) A normal sitting of the Arbitration Court is to consist of 1 judge and 1 set of nominated members (i.e., 1 employers' nominee and 1 workers' nominee). It will thus be possible to have 2 Courts sitting simultaneously.
- (d) Nominated members are to be appointed on a career basis with a retirement age of 72 instead of the present term of 3 years. Acting nominated members will continue to have a term of 3 years. Existing nominated and acting nominated members of the Industrial Court are carried over to the new Court. Existing members of the Industrial Commission are to vacate office.
- (e) The Judge of the Arbitration Court who customarily acts as the Chairman of the Public Sector Tribunal will exercise his functions in relation to a dispute of right or a dispute of interest under the Industrial Relations Act 1973 only with the consent of the parties to the dispute.
- (f) The present one-man Aircrew Industrial Tribunal is to be replaced by a Judge of the new Arbitration Court.
- (g) The present Chairman of the Waterfront Industry Tribunal (a Government appointed barrister or solicitor) is to be replaced by a Judge of the new Arbitration Court.
- (h) The President of the Agricultural Workers Tribunal is to be replaced by a Judge of the new Arbitration Court. The existing President of that Tribunal is the President of the Industrial Commission.

No. 122—1

- (i) A right of appeal to the Court of Appeal by way of case stated on a question of law is conferred on any party to any proceedings under the Industrial Relations Act 1973 who is dissatisfied with any decision of the Court (other than a decision on the construction of any award or collective agreement) as being erroneous in point of law.

*Clause 1* relates to the Short Title.

## PART I

### AMENDMENTS TO INDUSTRIAL RELATIONS ACT 1973

*Clause 2: Subclause (1)* provides that this Part of the Bill, and the *First, Second, and Third Schedules* to the Bill, are to form part of the Industrial Relations Act 1973.

*Subclause (2)* provides that this Part of the Bill, and the *First, Second, and Third Schedules* to the Bill, are to come into force on a date to be appointed by the Governor-General by Order in Council.

*Clause 3* abolishes the Industrial Commission and repeals Part III of the Industrial Relations Act 1973.

*Clause 4* substitutes a new Part IV in the Industrial Relations Act 1973. The new Part deals with the Arbitration Court.

The new *section 32* establishes the Arbitration Court, and declares it to be the same Court as that heretofore called the Industrial Court.

The new *section 33: Subsections (1) and (2)* provide that the Arbitration Court is to consist of not less than 3 judges plus two or more sets of nominated members. One of the Judges is to be appointed Chief Judge of the Court.

*Subsection (3)* limits, as already mentioned, the functions under the Industrial Relations Act 1973 of the Judge of the Arbitration Court who customarily acts as the Chairman of the Public Sector Tribunal.

The new *section 34* re-enacts the existing law as to the constitution of the Court not being questioned.

The new *section 35* provides for the appointment of a Registrar and other officers of the Court.

The new *section 36* provides for the Court's seal.

#### *Judges of the Court*

The new *section 37* provides for the appointment of Judges. It is in substance a re-enactment of the existing law except that it provides for the appointment of more than one Judge and deals with the question of seniority among the Judges.

The new *section 38* enables the senior Judge to act as Chief Judge in certain circumstances.

The new *section 39* relates to the salaries of Judges.

The new *section 40* authorises the appointment of temporary Judges.

The new *section 41* provides for the appointment of nominated members of the Court. Every such member is to retire from office on attaining the age of 72 years. Such members are at present appointed for a term of 3 years.

The new *section 42* re-enacts the existing provision relating to the appointment of acting nominated members.

The new *section 43* provides that acting nominated members are to have a 3-year term of office.

The new *sections 44 and 45* re-enact the existing provisions dealing with the oath of office and secrecy to be taken by nominated members and acting nominated members, and with their remuneration.

The new *section 46* deals with the disqualification of nominated members and acting nominated members. The section differs from the existing provision in that an age limit of 72 years has been included and in that the provision disqualifying any person convicted of any offence punishable by imprisonment for a term of 6 months or more has been deleted.

The new *section 47* largely re-enacts the existing law relating to the filling of extraordinary vacancies in the office of nominated members or acting nominated members. Provision is now made for the removal from office of members proved, to the satisfaction of the Governor-General, to have been guilty of neglect of duty or misconduct. Changes consequent on the provisions providing for nominated members to be appointed for other than a fixed 3-year term have also been necessary.

#### *Jurisdiction and Procedure of the Court*

The new *section 48* provides for the jurisdiction of the Court. New provisions are:

- (a) *Subsection (1) (a)* which confers on the Court jurisdiction (which at present belongs to the Industrial Commission) for the settlement of disputes of interest, and for the making of awards.
- (b) *Subsection (2) (a)* which is an expanded version of an existing provision. It authorises the Court to hear and determine any question connected with the construction of the Industrial Relations Act 1973 or any Act relating to industrial matters or conferring functions and powers upon the Court (which power confers on the Court authority to determine conclusively any such question for the purposes of any case properly brought before the Court, notwithstanding that the question concerns the meaning of the Act under which the Court is constituted or under which it operates in the particular case).
- (c) *Subsection (7)* which protects the Court's decisions from challenge on the ground of lack of jurisdiction by providing that the Court suffers from lack of jurisdiction only where—
  - (i) In the narrow and original sense of the term jurisdiction, it has no entitlement to enter upon the inquiry in question; or
  - (ii) The decision, order, or award is outside the classes of decisions, orders, or awards which the Court is authorised to make; or
  - (iii) The Court acts in bad faith.

The new *section 49* re-enacts the existing law under which the Court may delegate powers or functions to a Magistrate.

The new *section 50* re-enacts the existing law concerning the dismissal of frivolous cases.

The new *section 51* is a modified version of an existing provision. The right to state a case for the opinion of the Court of Appeal during the course of the proceedings is now at the discretion of the Judge.

The new *section 52* is a modified version of an existing provision. *Subsections (1) and (2)* are new. Their format allows more than one sitting of the Court to be held at the same time.

The new *section 53* re-enacts the existing law concerning the quorum and decision of the Court.

The new *section 54* (which deals with the appearance of parties) is based on sections 30 and 54 of the existing Act. The substance of the existing law is re-enacted.

The new *sections 55 and 56* re-enact the existing law concerning the failure of a party to attend and the withdrawal of a reference to the Court.

The new *section 57* re-enacts the existing law concerning evidence generally. The section combines the provisions of sections 29 and 57 of the existing Act.

The new *sections 58 to 62* re-enact the existing law as to the non-abatement of proceedings on a change in the Court or on a vacancy in its membership or the death of a party, the power to award costs, the service of processes on Sunday, and the making of rules.

The new *section 62A* confers a right of appeal to the Court of Appeal by way of case stated on a question of law only.

The new *section 62B* provides that the Court of Appeal may, instead of determining the appeal, direct the Arbitration Court to reconsider, either generally or in respect of any specified matters, the whole or part of the matter to which the appeal relates.

*Clause 5* substitutes a new subsection (6) in section 124A of the Industrial Relations Act 1973. The subsection is extended by making it an offence for any person to fail to comply in any respect with—

- (a) Any decision of the Arbitration Court on a dispute referred to that Court pursuant to paragraph (b) of subclause (4) of the clause referred to in section 115 (1) of the Act or to any provision corresponding to that paragraph and contained in a clause inserted or, as the case may be, deemed to be inserted in the relevant award or collective agreement pursuant to section 115 (3) of the Act; or
- (b) Any decision by way of final settlement of a personal grievance which is binding on him and which is made by a grievance committee constituted pursuant to section 117 (4) (e) of the Act or by the chairman of any such committee.

The two decisions are in the same category as other decisions referred to in the existing subsection.

*Clause 6* makes consequential amendments.

*Clause 7* effects repeals.

*Clause 8* contains transitional provisions. In particular the present Judge of the Industrial Court is to become the Chief Judge of the Arbitration Court and may continue in that office for 12 months after the commencement of this Part of this Bill notwithstanding his age.

Clause 9 ensures that the assets of the two industrial associations which combined to form The New Zealand Waterside Workers Federation Industrial Association of Workers duly vested in the new association when it was registered in 1967.

## PART II

### AMENDMENTS TO AIRCREW INDUSTRIAL TRIBUNAL ACT 1971

Clause 10: *Subclause (1)* provides that this Part of the Bill is to form part of the Aircrew Industrial Tribunal Act 1971.

*Subclause (2)* provides that this Part of the Bill is to come into force on a date to be appointed by the Governor-General by Order in Council.

Clause 11 replaces the present one-man Aircrew Industrial Tribunal by a Judge of the Arbitration Court.

Clause 12 adds two new subsections to section 13 of the Aircrew Industrial Tribunal Act 1971.

The new *subsection (2)* provides that any disputed point of law referred by the Aircrew Industrial Tribunal under section 10 of the Commissions of Inquiry Act 1908 shall be heard and determined by the Court of Appeal.

The new *subsection (3)* provides that no question as to the construction of any award shall be referred by the Tribunal under section 10 of the Commissions of Inquiry Act 1908.

## PART III

### AMENDMENTS TO WATERFRONT INDUSTRY ACT 1976

Clause 13: *Subclause (1)* provides that this Part of the Bill is to form part of the Waterfront Industry Act 1976.

*Subclause (2)* provides that this Part of the Bill is to come into force on a date to be appointed by the Governor-General by Order in Council; and allows different dates to be appointed for the purpose of different provisions of this Part of the Bill.

Clause 14 substitutes references to the New Zealand Waterside Employers' Industrial Union of Employers for references to the New Zealand Waterside Employers' Association Industrial Association of Employers.

Clause 15 replaces the present Chairman of the Waterfront Industry Tribunal with a Judge of the Arbitration Court.

The Tribunal is precluded from referring to the Court of Appeal for its opinion on any question of law any question as to the construction of any principal order.

Clause 16 clarifies the meaning of the term "appointing authority" in section 46 (5) of the Waterfront Industry Act 1976.

Clause 17 makes consequential amendments.

## PART IV

### AMENDMENTS TO AGRICULTURAL WORKERS ACT 1977

Clause 18: *Subclause (1)* provides that this Part of the Bill, and the *Fourth* Schedule to the Bill, are to form part of the Agricultural Workers Act 1977.

*Subclause (2)* provides that this Part of the Bill, and the *Fourth Schedule to the Bill*, are to come into force on a date to be appointed by the *Governor-General by Order in Council*.

*Clause 19* provides that a Judge of the Arbitration Court is to act as the President of the Agricultural Workers Tribunal.

*Clause 20* re-states the Agricultural Workers Tribunal's powers as a commission of inquiry.

It also provides that any disputed point of law referred by the Tribunal under section 10 of the Commissions of Inquiry Act 1908 shall be heard and determined by the Court of Appeal; but no question as to the construction of any award shall be referred by the Tribunal under section 10 of that Act.

*Clause 21* makes consequential amendments.

Hon. Mr Gordon

## INDUSTRIAL LAW 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
3. Industrial Commission abolished
4. New Part IV substituted

#### "PART IV"

##### "THE ARBITRATION COURT"

32. Arbitration Court
33. Constitution of Arbitration Court
34. Constitution of Court not to be questioned
35. Registrar and officers of the Court
36. Seal of the Court

##### *Judges of the Court*

37. Appointment of Judges
38. Senior Judge to act as Chief Judge in certain circumstances
39. Salaries of Judges
40. Appointment of temporary Judges

##### *Nominated Members of the Court*

41. Appointment of nominated members of Court

42. Acting nominated members
43. Term of office of acting nominated members
44. Oath of office and secrecy
45. Remuneration of nominated members
46. Disqualification of nominated members
47. Extraordinary vacancies

##### *Jurisdiction and Procedure of the Court*

48. Jurisdiction of Court
49. Court may delegate functions to a Magistrate
50. Court may dismiss frivolous cases
51. Statement of case for Court of Appeal
52. Sittings of Court
53. Quorum and decision of Court
54. Appearance of parties
55. Power to proceed if any party fails to attend
56. Withdrawal of reference
57. Evidence
58. Proceedings to continue on change in Court
59. Proceedings not to abate by reason of death
60. Power to award costs
61. Service of process on Sundays void
62. Court may make rules
- 62A. Appeals to Court of Appeal
- 62B. Court of Appeal may refer appeals back for reconsideration

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| <ul style="list-style-type: none"> <li>5. Penalty for failure to observe disputes procedure</li> <li>6. Consequential amendments</li> <li>7. Repeals</li> <li>8. Existing appointments, awards, agreements, and proceedings</li> <li>9. Vesting of assets in the New Zealand Waterside Workers Federation Industrial Association of Workers</li> </ul> | <ul style="list-style-type: none"> <li>14. New Zealand Waterside Employers' Industrial Union of Employers</li> <li>15. Waterfront Industry Tribunal</li> <li>16. Term of office</li> <li>17. Amendments consequential on abolition of Industrial Commission and change of name of Industrial Court</li> </ul> |
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**PART II****AMENDMENTS TO AIRCREW INDUSTRIAL TRIBUNAL ACT 1971**

- 10. This Part to be read with Aircrew Industrial Tribunal Act 1971
- 11. Establishment of Tribunal
- 12. Tribunal to be a Commission of Inquiry

**PART III****AMENDMENTS TO WATERFRONT INDUSTRY ACT 1976**

- 13. This Part to be read with Waterfront Industry Act 1976

**PART IV****AMENDMENTS TO AGRICULTURAL WORKERS ACT 1977**

- 18. This Part to be read with Agricultural Workers Act 1977
- 19. Agricultural Tribunal
- 20. Tribunal to be a Commission of Inquiry
- 21. Consequential amendments Schedules

**A BILL INTITULED**

**An Act to reform the law relating to industrial relations in New Zealand by amending the Industrial Relations Act 1973, the Aircrew Industrial Tribunal Act 1971, the Waterfront Industry Act 1976, and the Agricultural Workers Act 1977** 5

**BE IT 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 Industrial Law Reform Act 1977.

**PART I****AMENDMENTS TO INDUSTRIAL RELATIONS ACT 1973**

**2. This Part to be read with Industrial Relations Act 1973—**

(1) This Part of this Act, and the First, Second, and Third Schedules to 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).

\*1973, No. 19

Amendments: 1974, No. 89; 1975, No. 80; 1976, No. 7; 1976, No. 63



(2) This Part of this Act, and the First, Second, and Third Schedules to this Act, shall come into force on a date to be appointed by the Governor-General by Order in Council.

5 **3. Industrial Commission abolished**—(1) The Industrial Commission is hereby abolished.

(2) The principal Act is hereby amended by repealing Part III.

10 **4. New Part IV substituted**—The principal Act is hereby amended by repealing Part IV, and substituting the following Part:

“PART IV

“THE ARBITRATION COURT

15 “32. **Arbitration Court**—(1) There is hereby established a Court of record, to be called the Arbitration Court, which in addition to the jurisdiction and powers specially conferred on it by this Act, shall have all the powers inherent in a Court of record.

20 “(2) Subject to the provisions of this Act, the Arbitration Court is hereby declared to be the same Court as that established by this Act and called, before the commencement of the Industrial Relations Amendment Act 1977, the Industrial Court.

25 “33. **Constitution of Arbitration Court**—(1) Subject to the provisions of this Part of this Act, the Court shall consist of—

“(a) One Judge who shall be called the Chief Judge of the Court:

“(b) Not less than two other Judges who shall be called Judges of the Court:

30 “(c) Two or more members appointed on the nomination of the central organisation of employers:

“(d) Two or more members appointed on the nomination of the central organisation of workers.

35 “(2) The number of members appointed under subsection (1) (c) of this section and the number of members appointed under subsection (1) (d) of this section shall be the same.

“(3) The Judge of the Court who customarily acts as the Chairman of the Public Sector Tribunal pursuant to section 37 (2) (a) of the State Services Conditions of Employment Act 1977 shall exercise his functions in relation to a dispute of right or a dispute of interest under this Act only with the consent of the parties to the dispute. 5

“34. **Constitution of Court not to be questioned**—(1) Notwithstanding anything in this Act, the appointment of a 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 an acting nominated member, or done by any such 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. 10

“(2) Whether the Court at any sitting is duly constituted as required by this Act or has been duly convened for the sitting are matters to be determined by the Judge presiding, whose decision thereon shall be final and conclusive and shall not be questioned in any proceedings in the Court or in any other Court. 15 20

“(3) The fact that a sitting of the Court has been held shall be conclusive evidence of a decision by a Judge that the Court was duly constituted at and duly convened for that sitting.

“35. **Registrar and officers of the Court**—There may from time to time be appointed under the State Services Act 1962 a Registrar of the Arbitration Court, a Deputy Registrar of the Arbitration Court, and such other officers of the Court as may be required. 25

“36. **Seal of the Court**—The Court shall have a seal, which shall be judicially noticed by all Courts and for all purposes. 30

#### *Judges of the Court*

“37. **Appointment of Judges**—(1) Subject to the provisions of this section, the Judges of the Court shall be appointed from time to time by the Governor-General.

“(2) No person other than a barrister or solicitor of not less than 7 years' standing of the Supreme Court shall be appointed a Judge of the Arbitration Court. 35

“(3) The commissions of the Chief Judge and other Judges of the Court shall continue in full force during good behaviour, notwithstanding the demise of Her Majesty. 40

“(4) It shall be lawful for Her Majesty, upon the address of the House of Representatives, to remove any Judge from his office and to revoke his commission, and for the Governor-General to suspend any Judge upon a like address.

5 “(5) It shall be lawful for the Governor-General in Council, at any time while Parliament is not in session, to suspend any Judge from his office, and that suspension, unless previously revoked, shall continue in force until the end of the next ensuing session, and no longer.

10 “(6) Every Judge shall retire from office on attaining the age of 72 years.

“(7) Subject to the provisions of this section, the Judges of the Court other than the Chief Judge shall have seniority among themselves according to the dates of their appointments as Judges of the Court. If two or more of them are both  
15 appointed on the same day, they shall have seniority according to the precedence assigned to them by the Governor-General or, failing any such assignment, according to the order in which they take the Judicial Oath:

20 “Provided that every permanent Judge shall have seniority over every temporary Judge.

“(8) The jurisdiction of the Court shall not be affected by any vacancy in the number of Judges of the Court.

25 **“38. Senior Judge to act as Chief Judge in certain circumstances—**(1) While any vacancy exists in the office of Chief Judge, or during any absence from New Zealand of the Chief Judge, the senior Judge of the Court in New Zealand (not being the Judge to whom section 33 (3) of this Act applies) shall have authority to act as Chief Judge and to execute the  
30 duties of that office and to exercise all powers that may be lawfully exercised by the Chief Judge (including any exercisable by him under the General Wage Orders Act 1977).

35 “(2) Whenever by reason of illness or any cause other than absence from New Zealand the Chief Judge is prevented from exercising the duties of his office, the Governor-General may authorise the senior Judge of the Court (not being the Judge to whom section 33 (3) of this Act applies) to act as  
40 Chief Judge until the Chief Judge resumes his duties, and during that period to execute the duties of that office and to exercise all powers that may be lawfully exercised by the Chief Judge (including any exercisable by him under the General Wage Orders Act 1977).

“39. **Salaries of Judges**—(1) There shall be paid to each Judge of the Arbitration Court out of the Consolidated Revenue Account, without further appropriation than this section,—

“(a) A salary at such rate as the Governor-General, by Order in Council, from time to time determines, and the rate so determined for the Chief Judge may be higher than that for the other Judges; and 5

“(b) Such travelling allowances as may be fixed from time to time by the Governor-General. 10

“(2) The salary of a Judge shall not be diminished during the continuance of his appointment.

“(3) Any Order in Council under subsection (1) of this section, and any provision of any such order, may be made so as to come into force on a date to be specified in that behalf in the order, being the date of the making of the order or any other date, whether before or after the date of the making of the order. 15

“(4) Every Order in Council under subsection (1) of this section, and every provision of any such order, in respect of which no date is specified as aforesaid shall come into force on the date of the making of the order. 20

“(5) Section 8 of the Regulations Act 1936 (which relates to the laying of regulations before Parliament) shall extend and apply to every Order in Council made under subsection (1) of this section. 25

“40. **Appointment of temporary Judges**—(1) The Governor-General may from time to time, whenever in his opinion it is necessary or expedient to make a temporary appointment, by warrant under his hand, appoint one or more temporary Judges of the Arbitration Court to hold office for such period as is specified in the warrant. 30

“(2) 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 Judge, whether under a permanent or a temporary appointment. 35

“(3) Every Judge appointed under this section shall be paid such salary, not exceeding the salary payable for the time being to Judges other than the Chief Judge, as the Governor-General in Council directs. 40

*Nominated Members of the Court*

**“41. Appointment of nominated members of Court—**

(1) The nominated members of the Court shall be appointed by the Governor-General on the advice of the Minister.

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

“(3) The jurisdiction of the Court shall not be affected by any vacancy in the number of nominated members of the Court.

10 **“42. Acting nominated members—**(1) The Governor-General may from time to time, on the advice of the Minister, appoint, in respect of each nominated member, a person to be an acting nominated member of the Court, to act in the absence of the nominated member.

15 “(2) An acting nominated member shall be appointed in the same manner as the member in whose absence he is to act.

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

20 “(4) When the 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 him to complete the hearing before ceasing to act.

25 “(5) If a nominated member is himself a party to a dispute or proceedings before the Court, and is consequently unable to act, the acting nominated member may attend and act, and subsections (3) and (4) of this section shall apply with the necessary modifications.

**“43. Term of office of acting nominated members—**

(1) Every acting nominated member of the Court shall hold office for a term of 3 years from the date of his appointment, and shall be eligible for reappointment from time to time.

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

“44. **Oath of office and secrecy**—Before entering on the exercise of the functions of his office, every 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 brought before the Court. 5  
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“45. **Remuneration of nominated members**—There shall be paid out of money appropriated by Parliament for the purpose to each nominated or acting nominated member of the Court remuneration by way of salary, fees, or allowances and travelling allowances and 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 within the meaning of that Act. 15  
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“46. **Disqualification of nominated members**—The following persons shall be disqualified from being appointed or becoming or holding office as a nominated member or acting nominated member of the Court; and if so appointed shall be incapable of continuing to hold the office: 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 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 acting nominated member may resign his office by letter addressed to the Minister.

5 “(3) If any nominated member or acting 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 an extraordinary vacancy shall be deemed to exist in the office of acting nominated member.

10 “(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 “(6) Every person appointed to fill an extraordinary vacancy in the office of an acting nominated member shall hold office for the residue of the term for which his predecessor in office was appointed.

*Jurisdiction and Procedure of the Court*

20 “48. **Jurisdiction of Court**—(1) The Court shall have—

“(a) Jurisdiction for the settlement of disputes of interest, in accordance with this Act, and for the making of awards:

25 “(b) Jurisdiction for the settlement and determination of any dispute of rights referred to it under this Act:

“(c) Such other functions and powers as are conferred on it by this or any other Act.

“(2) Without prejudice to subsection (1) of this section, the Court may—

30 “(a) Hear and determine any question connected with the construction of this Act or any Act relating to industrial matters or conferring functions and powers upon the Court (which power shall confer on the Court authority to determine conclusively any such question for the purposes of any case properly brought before the Court, notwithstanding that the question concerns the meaning of the Act under which the Court is constituted or under which it operates in the particular case):

35 “(b) Hear and determine any question connected with the construction of any award or collective agreement, or on any particular determination or direction of the Court:

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- “(c) Make an order determining the rights of the parties under any award or order or collective agreement:
- “(d) Order compliance with any award, order, or collective agreement proved to the satisfaction of the Court to have been broken or not observed: 5
- “(e) Hear and determine enforcement and recovery actions under this Act:
- “(f) Hear and determine appeals from disputes committees: 10
- “(g) Hear and determine matters referred to the Court relating to grievance procedures:
- “(h) Hear and determine questions relating to the registration and jurisdiction of unions:
- “(i) Inquire into and determine questions relating to disputed elections in accordance with Part XIII of this Act. 15
- “(3) If any question arises as to whether a dispute is one of interest or of rights, the question shall be determined by the Court. 20
- “(4) In all matters before it the Court shall have full and exclusive jurisdiction to determine them in such manner and to make such decisions, orders, or awards not inconsistent with this or any other Act, as in equity and good conscience it thinks fit. 25
- “(5) No decision, order, or award of the Court, and no proceeding before the Court, shall be held bad for want of form, or be void or in any way vitiated by reason of any informality or error of form.
- “(6) Except on the ground of lack of jurisdiction or as provided in section 62A of this Act, no decision, order, award, or proceeding of the Court shall be removable to any Court by certiorari or otherwise or be liable to be challenged, appealed against, reviewed, quashed, or called in question in any Court. 30
- “(7) For the purposes of subsection (6) of this section, the Court suffers from lack of jurisdiction only where— 35
- “(a) In the narrow and original sense of the term jurisdiction, it has no entitlement to enter upon the inquiry in question; or
- “(b) The decision, order, or award is outside the classes of decisions, orders, or awards which the Court is authorised to make; or 40
- “(c) The Court acts in bad faith.



**“49. Court may delegate functions to a Magistrate—**

(1) Subject to the provisions of this section, the Court may, in respect of any matter before the Court (including any matter relating to the breach of an award or collective agreement), by order under the seal of the Court or in such other manner as the Court thinks fit, delegate to any Magistrate named by it any of its powers or functions under this or any other Act to deal with that matter (including the power to deal with any offence in respect of which it is provided in this Act that any person is liable on conviction by the Arbitration Court).

“(2) Any order made by the Court for the purposes of this section may be at any time in like manner varied or revoked.

“(3) A delegation of any power or function under this section shall not deprive the Court of power to itself exercise that power or function.

“(4) Where any judgment, order, or other instrument is made by a Magistrate it shall be signed by him with the addition of the words ‘Acting as a duly appointed delegate of the Arbitration Court’ or words to that effect, and shall be filed with the Registrar of the Court; and notice of its making shall forthwith be given to the parties and to such other persons, and in such manner, as may be prescribed.

“(5) If an appeal is not lodged under subsection (6) of this section within the prescribed time, or if any such appeal is withdrawn or dismissed, the judgment, order, or other instrument shall be sealed with the seal of the Court and shall be deemed to have been made by the Court on the day after the expiration of the time so prescribed, and that day shall be deemed to be its date.

“(6) Any person who is directly affected by any decision of a delegate of the Court acting under the authority of this section may, within such time and in such manner as may be prescribed, appeal to the Arbitration Court; and in any such case the Court may deal with the matter in all respects as if an order of delegation in respect of it had not been made.

**“50. Court may dismiss frivolous cases—**The Court may at any time dismiss any matter before it which it thinks frivolous or trivial; and in any such case the order of the Court may be limited to an order on the party bringing the matter before the Court for payment of costs and expenses.

“51. **Statement of case for Court of Appeal**—In any matter before the Court the Judge may of his own motion, or on the application of any party, state a case for the Court of Appeal on any question of law arising in the matter, excluding any question as to the construction of any award or collective agreement. 5

“52. **Sittings of Court**—(1) Not more than 3 members of the Court shall be present at each sitting of the Court but more than one sitting of the Court may be held at any one time. 10

“(2) The 3 members to constitute the Court for the purposes of any sitting or for the purposes of any sitting in respect of any proceedings or class of proceedings specified by the Chief Judge shall be nominated by the Chief Judge and shall comprise— 15

“(a) As presiding member, the Chief Judge or any other Judge:

“(b) One member appointed under section 33 (1) (c) of this Act:

“(c) One member appointed under section 33 (1) (d) of this Act. 20

“(3) Sittings of the Court shall be held at such times and places as are from time to time fixed by a Judge.

“(4) Sittings may be fixed either for a particular case or generally for all cases then before the Court and ripe for hearing. 25

“(5) The Court may be adjourned from time to time and from place to place in the following manner:

“(a) By the Court or the Judge at any sitting, or if the Judge is absent from the sitting, then by any other member present, or if no member is present, then by the Registrar of the Court; and 30

“(b) By the Judge at any time before the time fixed for the sitting.

“53. **Quorum and decision of Court**—(1) The presence of the Judge and at least one other member shall be necessary to constitute a sitting of the Court, except as otherwise expressly provided. 35

“(2) The decision of a majority of the members present at the sitting of the Court, or, if the members present are equally divided in opinion, the decision of the Judge, shall be the decision of the Court. 40

“(3) The decision of the Court in every case shall be signed by the Judge, and may be issued by him or by any other member of the Court or by the Registrar of the Court.

5 “54. **Appearance of parties**—(1) Subject to subsection (4) of this section, any party to any proceedings before the Court may—

“(a) Appear personally; or

“(b) Be represented by an agent; or

10 “(c) Be represented by a barrister or solicitor— and may produce before the Court such witnesses, books, and documents as the party thinks proper.

“(2) In any proceedings, other than arbitration proceedings, the Court shall allow to appear or to be represented as aforesaid any person who applies to the Court for leave to 15 appear or be represented, being a person who in the opinion of the Court is justly entitled to be heard; and the Court may order any other person so to appear or be represented.

“(3) Any person appearing or represented in any proceedings pursuant to leave granted or an order made under 20 subsection (2) of this section shall be deemed to be a party to the proceedings.

“(4) In arbitration proceedings, no barrister or solicitor who holds a practising certificate for the time being in force under the Law Practitioners Act 1955, whether he is acting 25 under a power of attorney or otherwise, shall, except with the consent of all the parties, be allowed to appear or be heard before the Court.

“(5) Nothing in this section or in section 23 of the Law Practitioners Act 1955 shall prevent a barrister or solicitor 30 who is not the holder of a practising certificate for the time being in force under that Act from appearing or being heard before the Court in any proceedings.

“55. **Power to proceed if any party fails to attend**—If, 35 without good cause shown, any party to proceedings before the Court fails to attend or be represented, the Court may proceed and act as fully in the matter before it as if that party had duly attended or been represented.

“56. **Withdrawal of reference**—Where any dispute or 40 matter has been referred to the Court for settlement or determination, the reference may at any time be withdrawn by the applicant.

“57. Evidence—(1) In any proceedings, the Court may accept, admit, and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not.

“(2) Without prejudice to subsection (1) of this section, the following provisions shall apply with respect to evidence in any proceedings before the Court: 5

“(a) On the application of any of the parties the Registrar of the Court shall issue a summons to any person to appear and give evidence before the Court: 10

“(b) The summons shall be in the prescribed form, and may require the person to produce before the Court any books, papers, or other documents in his possession or under his control in any way relating to the proceedings: 15

“(c) All documents produced before the Court, whether produced voluntarily or pursuant to a summons, may be inspected by the Court, and also by such of the parties as the Court allows; but the information obtained therefrom shall not be made public, and such parts of the documents as, in the opinion of the Court, do not relate to the matter at issue may be sealed up: 20

“(d) Every person attending the Court on a summons, and every other person giving evidence before the Court, shall be entitled as against the party calling him to a sum for his expenses and loss of time according to the scale for the time being in force with respect to witnesses under the Magistrates’ Courts Act 1947: 30

“Provided that the Court may disallow the whole or any part of that sum:

“(e) Any witness summoned in pursuance of this subsection as a witness who—

“(i) Refuses or neglects, without sufficient cause, to appear or to produce any documents required by the summons to be produced; or 35

“(ii) Refuses to be sworn or to give evidence— shall be liable on conviction by the Arbitration Court to a fine not exceeding \$100: 40

“Provided that no person so summoned shall be liable to that penalty unless there has been paid or tendered to him at the time of the service of the summons, or at some other reasonable time

before the hearing, such sum in respect of his expenses as may for the time being be prescribed in that behalf with respect to witnesses under the Magistrates' Courts Act 1947:

5 “(f) Any person present in Court who is required to give evidence but refuses to be sworn or to give evidence shall be liable on conviction by the Arbitration Court to a fine not exceeding \$100:

10 “(g) For the purpose of obtaining the evidence of witnesses at a distance the Court, or, while the Court is not sitting, the Judge, shall have all the powers and functions of a Magistrate under the Magistrates' Courts Act 1947, and the provisions of that Act relating to the taking of evidence at a distance shall, with the necessary modifications, apply in like manner as if the Court were a Magistrate's Court:

15 “(h) The Court may take evidence on oath, and for that purpose any member, the Registrar of the Court, or any other person acting under the express or implied direction of the Court, may administer an oath:

20 “(i) On any indictment for perjury it shall be sufficient to prove that the oath was administered as aforesaid:

25 “(j) Any party to the proceedings shall be competent and may be compelled to give evidence as a witness:

“(k) The Court in its discretion may order that all or any part of its proceedings may be taken down in shorthand or recorded in any other manner.

30 “(3) In any arbitration proceedings the following provisions shall apply:

35 “(a) Formal matters that have been proved or admitted before a conciliation council need not be again proved or admitted before the Court, but shall be deemed to be proved:

40 “(b) The Court may, if it thinks fit, dispense with any evidence on any matters on which all parties to the dispute have agreed in writing either as a collective agreement or by memorandum before a conciliation council.

“58. **Proceedings to continue on change in Court**—Where any change takes place in the members constituting the Court, any proceedings or inquiry then in progress shall not abate or be affected, but shall continue and be dealt with by the Court as if no such change had taken place; but the Court may require evidence to be retaken where necessary.

**“59. Proceedings not to abate by reason of death—**Proceedings before the Court shall not abate by reason of the seat of any member of the Court being vacant for any cause whatever, or of the death of any party to the proceedings; and in the latter case the legal personal representative of the deceased party shall be substituted in his stead. 5

**“60. Power to award costs—**The Court in any proceedings may order any party to pay to any other party such costs and expenses (including expenses of witnesses) as it deems reasonable, and may apportion any such costs between the parties or any of them as it thinks fit, and may at any time vary or alter any such order in such manner as it thinks reasonable. 10

**“61. Service of process on Sundays void—**(1) No person shall serve or cause to be served on Sunday any order or other process of the Court; and any such service shall be void to all intents and purposes whatsoever. 15

**“(2) Every person who commits a breach of this section shall be liable on summary conviction to a fine not exceeding \$50. 20**

**“62. Court may make rules—**The Court may from time to time make rules (not inconsistent with this Act or with any regulations under this Act) for the purpose of regulating the practice and procedure of the Court and the proceedings of parties. 25

**“62A. Appeals to Court of Appeal—**(1) Where any party to any proceedings under this Act is dissatisfied with any decision of the Court (other than a decision on the construction of any award or collective agreement) as being erroneous in point of law, he may appeal to the Court of Appeal by way of case stated for the opinion of that Court on a question of law only. 30

**“(2) The provisions of Part IV of the Summary Proceedings Act 1957 (except sections 113 to 122, 124 to 128, 130 to 132, and 136 to 144), so far as they relate to appeals by way of case stated on questions of law only, shall apply, so far as they are applicable and with the necessary modifications, to every appeal under this section. In the application of those provisions, they shall be read as if— 35**

**“(a) Every reference to a Magistrate’s Court were a reference to the Arbitration Court: 40**

“(b) Every reference to a Magistrate or Justice or Justices were a reference to a Judge of the Arbitration Court:

85 “(c) Every reference to the Registrar of the Magistrate’s Court were a reference to the Registrar of the Arbitration Court:

“(d) Every reference to the Supreme Court or to the Registrar of the Supreme Court were a reference to the Court of Appeal or, as the case may be, to the Registrar of the Court of Appeal:

10 “(e) Every reference to the respondent were a reference to each of the other parties to the proceedings before the Arbitration Court other than the appellant.

15 “(3) Every such appeal shall be made by giving notice of appeal within 28 days after the date of the issue of the decision to which the appeal relates.

“(4) In determining any appeal under this section, the Court of Appeal shall have regard to the special jurisdiction and powers of the Arbitration Court and, in particular, to the provisions of sections 48 (4), 57 (1), 226, and 229 of this Act.

20 “(5) In its determination of the appeal, the Court of Appeal may confirm, modify, or reverse the decision appealed against or any part of that decision.

“(6) Notice of appeal shall not operate as a stay of proceedings in respect of the decision to which the appeal relates unless the Arbitration Court or the Court of Appeal so orders.

30 “(7) The determination of the Court of Appeal on any appeal under this section shall be final and conclusive.

“(62B. Court of Appeal may refer appeals back for reconsideration—(1) Notwithstanding anything in section 62A of this Act, the Court of Appeal may in any case, instead of determining any appeal under that section, direct the Arbitration Court to reconsider, either generally or in respect of any specified matters, the whole or any specified part of the matter to which the appeal relates.

“(2) In giving any direction under this section, the Court of Appeal shall—

40 “(a) Advise the Arbitration Court of its reasons for so doing; and

“(b) Give to the Arbitration Court such directions as it thinks just as to the rehearing or reconsideration or otherwise of the whole or any part of the matter that is referred back for reconsideration.

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“(3) In reconsidering the matter so referred back, the Arbitration Court shall have regard to the Court of Appeal’s reasons for giving a direction under subsection (1) of this section and to the Court of Appeal’s directions under subsection (2) of this section.”

5

**5. Penalty for failure to observe disputes procedure**—Section 124A of the principal Act (as inserted by section 20 of the Industrial Relations Amendment Act (No. 2) 1976) is hereby amended by repealing subsection (6), and substituting the following subsection:

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“(6) Every person who fails to comply in any respect with—

“(a) Any decision of the Arbitration Court on a dispute referred to that Court pursuant to paragraph (b) of subclause (4) of the clause referred to in section 115 (1) of this Act or to any provision corresponding to that paragraph and contained in a clause inserted or, as the case may be, deemed to be inserted in the relevant award or collective agreement pursuant to section 115 (3) of this Act; or

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“(b) Any decision of a committee that is binding on him pursuant to subclause (5) of the clause referred to in section 115 (1) of this Act or to any provision corresponding to that subclause and contained in a clause inserted or, as the case may be, deemed to be inserted in the relevant award or collective agreement pursuant to section 115 (3) of this Act; or

25

“(c) Any decision of the Arbitration Court pursuant to subclause (6) of the clause referred to in section 115 (1) of this Act or to any provision corresponding to that subclause and contained in a clause inserted or, as the case may be, deemed to be inserted in the relevant award or collective agreement pursuant to section 115 (3) of this Act; or

30

35

“(d) Any decision by way of final settlement of a personal grievance which is binding on him and which is made by a grievance committee constituted pursuant to section 117 (4) (e) of this Act or by the chairman of any such committee; or

40



“(c) Any decision or award by way of a final settlement of a personal grievance that is binding on him pursuant to section 117 (4) (i) of this Act,— shall be deemed to have committed a breach of the relevant award or collective agreement.”

**6. Consequential amendments**—(1) The principal Act is hereby further amended in the manner indicated in the First Schedule to this Act.

(2) The enactments specified in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(3) Subject to subsections (1) and (2) of this section, and unless in any case the context otherwise requires, in any enactment, regulation, order, notice, award, agreement, instrument, or other document, in force at the commencement of this Act,—

(a) Every reference to the Industrial Court or to the Industrial Commission shall after the commencement of this Act be read as a reference to the Arbitration Court:

(b) Every reference to the Registrar of the Industrial Court or to the Registrar of the Industrial Commission shall after the commencement of this Act be read as a reference to the Registrar of the Arbitration Court.

**7. Repeals**—The enactments specified in the Third Schedule to this Act are hereby repealed.

**8. Existing appointments, awards, agreements, and proceedings**—(1) The person who immediately before the commencement of this Act held office as the Judge of the Industrial Court constituted under the Industrial Relations Act 1973 shall, without further appointment, be deemed as from the commencement of this Act to have been appointed Chief Judge of the Arbitration Court under this Act; and notwithstanding the provisions of subsection (6) of section 37 of the principal Act shall not be obliged by that subsection to retire from office during the period of 12 months beginning with the date of the commencement of this Act.

(2) The period during which the Chief Judge of the Court deemed to have been appointed under subsection (1) of this section held office as the Judge of the Industrial Court shall, for the purpose of computing any retiring allowance to which he may be entitled under section 76 of the Superannuation Act 1956, be deemed to have been served as the Chief Judge of the Arbitration Court. 5

(3) The persons holding office at the commencement of this Act as members of the Industrial Commission shall on the commencement of this section be deemed to have vacated office as members of the Industrial Commission. 10

(4) Notwithstanding the provisions of subsection (3) of this section, the persons holding office at the commencement of this section as members of the Industrial Commission appointed under paragraph (b) or paragraph (c) of section 17 (3) of the principal Act and as nominated members of the Industrial Court appointed under section 40 of that Act shall, subject to sections 41 (2), 46, and 47 of the principal Act, continue in office after the commencement of this section as nominated members of the Arbitration Court. 15 20

(5) The persons holding office at the commencement of this Act as acting nominated members of the Industrial Court shall, subject to sections 41 (2), 46, and 47 of the principal Act, continue in office after the commencement of this section as acting nominated members of the Arbitration Court for the terms for which they were so appointed. 25

(6) Every person who immediately before the commencement of this Act held office as the Registrar or the Deputy Registrar or an officer of the Industrial Court shall, without further appointment, be deemed as from the commencement of this Act to have been appointed as the Registrar or the Deputy Registrar or an officer of the Arbitration Court under this Act. 30

(7) Every award in force immediately before the commencement of this Act, being an award of the Industrial Commission or of the former Court of Arbitration, shall as from the commencement of this Act, and while the award continues in force, be deemed to be an award of the Arbitration Court under this Act. 35

(8) Every collective agreement registered by the Industrial Commission and in force immediately before the commencement of this Act shall as from the commencement of this Act, and while the agreement continues in force, be deemed to be a collective agreement registered by the Arbitration Court under this Act. 40 45

(9) Every agreement filed with the Registrar of the Industrial Commission under section 141 of the principal Act and in force immediately before the commencement of this Act shall as from the commencement of this Act, and while the  
5 agreement continues in force, be deemed to be an agreement filed under that section with the Registrar of the Arbitration Court.

(10) All applications, actions, appeals, proceedings, and other matters which before the commencement of this Act  
10 have been made or referred to the Industrial Commission or the Industrial Court, and which have not been determined or completed before the commencement of this Act may be determined and completed before the Arbitration Court.

(11) The Acts Interpretation Act 1924 shall apply subject  
15 to this section.

**9. Vesting of assets in the New Zealand Waterside Workers Federation Industrial Association of Workers**—Whereas The New Zealand Waterside Workers Federation Industrial Association of Workers (in this section referred to as the New  
20 Zealand Association) is duly registered and incorporated as an industrial association under the Industrial Relations Act 1973, having become registered as an industrial association on the 24th day of January 1967: And whereas on the registration of the New Zealand Association the registration of  
25 the industrial association then registered under the name of The Northern, Taranaki, Wellington, Canterbury and Otago and Southland Federation of Waterside Unions Industrial Association of Workers (in this section referred to as the Northern Association) and the registration of The South  
30 Island (N.Z.) Waterside Workers' Federation Industrial Association of Workers (in this section referred to as the Southern Association) were deemed to be cancelled pursuant to section 63 of the Industrial Conciliation and Arbitration Act 1954: And whereas it was the intention of the Northern Association and the Southern Association that their assets be transferred to the New Zealand Association: And whereas the  
35 respective assets of the Northern Association and the Southern Association would have become vested in the New Zealand Association if the amalgamation had been effected under section 84 of the Industrial Conciliation and Arbitration Act 1954: And whereas it is desirable that effect be given to the  
40 intention of the Northern Association and the Southern Association: Be it therefore enacted as follows:

All property, rights, duties, and obligations whatsoever that were vested in or imposed on the Northern Association or the Southern Association immediately before the registration of the New Zealand Association on the 24th day of January 1967 shall be deemed to have become vested in or imposed on the New Zealand Association on its registration on that date, as if the Northern Association and the Southern Association had been amalgamated on that date pursuant to section 84 of the Industrial Conciliation and Arbitration Act 1954 so as to form the New Zealand Association.

## PART II

### AMENDMENTS TO AIRCREW INDUSTRIAL TRIBUNAL ACT 1971

**10. This Part to be read with Aircrew Industrial Tribunal Act 1971**—(1) This Part of this Act shall be read together with and deemed part of the Aircrew Industrial Tribunal Act 1971\* (in this Part referred to as the principal Act).

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

\*1971, No. 5

**11. Establishment of Tribunal**—(1) Section 6 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The Tribunal shall consist of one person who shall be the Chief Judge of the Arbitration Court or a Judge of the Arbitration Court nominated for the time being as the Tribunal by the Chief Judge of the Arbitration Court.”

(2) The principal Act is hereby consequentially amended by repealing sections 7 to 11 and sections 14 and 15.

(3) The person holding office as the Aircrew Industrial Tribunal on the commencement of this Part of this Act shall vacate office with the commencement of this Part of this Act.

**12. Tribunal to be a Commission of Inquiry**—Section 13 of the principal Act is hereby amended by adding, as subsections (2) and (3), the following subsections:

“(2) Any disputed point of law referred by the Tribunal under section 10 of the Commissions of Inquiry Act 1908 shall be heard and determined by the Court of Appeal.

“(3) No question as to the construction of any award shall be referred by the Tribunal under section 10 of the Commissions of Inquiry Act 1908.”

PART III

AMENDMENTS TO WATERFRONT INDUSTRY ACT 1976

13. **This Part to be read with Waterfront Industry Act 1976**—(1) This Part of this Act shall be read together with  
5 and deemed part of the Waterfront Industry Act 1976\*  
(in this Part referred to as the principal Act).

\*1976, No. 72

(2) This Part of this Act shall come into force on a date to  
be appointed by the Governor-General by Order in Council;  
and different dates may be so appointed for the purpose of  
10 different provisions of this Part of this Act.

14. **New Zealand Waterside Employers' Industrial Union of Employers**—(1) The principal Act is hereby amended by  
omitting from section 4 (2) (b), and also from the proviso  
to section 11 (2) (a), the words "Association Industrial Asso-  
15 ciation", and substituting in each case the words "Industrial  
Union".

(2) Section 38 (2) of the principal Act is hereby amended  
by repealing paragraph (c), and substituting the following  
paragraph:

20 "(c) The removal of his name from the register is directed  
by the New Zealand Waterside Employers' Industrial  
Union of Employers:".

(3) All references to the New Zealand Waterside Em-  
ployers' Association Industrial Association of Employers (in-  
26 cluding any such references resulting from the application of  
section 63 (3) of the principal Act) in any principal order in  
force at the commencement of this Act or in any order  
amending any such principal order and so in force shall,  
30 unless inconsistent with the context, be read, after the com-  
mencement of this Act, as references to the New Zealand  
Waterside Employers' Industrial Union of Employers.

15. **Waterfront Industry Tribunal**—(1) Section 5 of the  
principal Act is hereby amended by repealing subsections (2)  
and (3), and substituting the following subsections:

35 "(2) The Tribunal shall consist of—

"(a) Two members to be appointed by the Governor-  
General on the recommendation of the Minister;  
and

"(b) A Chairman.

“(3) The Chairman of the Tribunal shall be the Chief Judge of the Arbitration Court or a Judge of the Arbitration Court nominated for the time being as Chairman of the Tribunal by the Chief Judge of the Arbitration Court.”

(2) Section 5 (7) of the principal Act is hereby amended 5  
by adding the words “excluding any question as to the construction of any principal order”.

(3) Section 6 of the principal Act is hereby amended by inserting, after the words “member of the Tribunal” wherever they appear in subsections (1) to (3), the words 10  
“(other than the Chairman)”.

(4) Section 7 of the principal Act is hereby amended—

(a) By omitting from subsection (1) the words “the Chairman or any other member of the Tribunal”, and substituting the words “any member of the Tribunal 15  
(other than the Chairman)”:

(b) By omitting from subsection (2) the words “or the Chairman”.

(5) Section 8 of the principal Act is hereby amended—

(a) By inserting in subsection (1), after the word “Tri- 20  
bunal”, the words “(other than the Chairman)”:

(b) By omitting from subsection (2) the words “the Tribunal or” in both places where they appear.

(6) The person holding office as the Chairman of the Tribunal on the commencement of this section shall vacate office 25  
with the commencement of this section.

**16. Term of office**—Section 46 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection:

“(5) In this section the term ‘appointing authority’ means— 30

“(a) In respect of any committee or council appointed by the Minister, the Minister:

“(b) In respect of any committee or council appointed by the Commission, the Commission:

“(c) In respect of the Chairman or Deputy Chairman of a 35  
Port Conciliation Committee, the Minister:

“(d) In respect of the members of a Port Conciliation Committee (other than the Chairman and the Deputy Chairman), the Chairman of that Committee:

“(e) In respect of the Chairman of a Conciliation Council, 40  
the Minister:

“(f) In respect of the members of a Conciliation Council (other than the Chairman), the Chairman of that Council.”

17. Amendments consequential in abolition of Industrial Commission and change of name of Industrial Court—The principal Act is hereby amended—

- (a) By omitting from section 14 (2) (c) the words “Industrial Commission” and “Commission”, and substituting the words “Arbitration Court” and “Court” respectively:
- (b) By omitting from section 14 (2) (e), and also from section 15 (1) (b) (viii), the words “Industrial Commission”, and substituting in each case the words “Arbitration Court”:
- (c) By omitting from the proviso to section 50 (2) the words “Industrial Court or Industrial Commission”, and substituting the words “Arbitration Court”:
- (d) By omitting from section 50 (7), and also from section 51, the words “Industrial Court”, and substituting in each case the words “Arbitration Court”.

#### PART IV

##### AMENDMENTS TO AGRICULTURAL WORKERS ACT 1977

18. This Part to be read with Agricultural Workers Act 1977—(1) This Part of this Act, and the Fourth Schedule to this Act, shall be read together with and deemed part of the Agricultural Workers Act 1977\* (in this Part referred to as the principal Act).

(2) This Part of this Act, and the Fourth Schedule to this Act, shall come into force on a date to be appointed by the Governor-General by Order in Council.

\*1977, No. 43

19. Agricultural Tribunal—(1) Section 17 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The President of the Tribunal shall be the Chief Judge of the Arbitration Court or a Judge of the Arbitration Court nominated for the time being as the President of the Tribunal by the Chief Judge of the Arbitration Court.”

(2) The person holding office as the President of the Tribunal on the commencement of this Part of this Act shall vacate office with the commencement of this Part of this Act.

**20. Tribunal to be a Commission of Inquiry**—(1) The principal Act is hereby amended by inserting, after section 25, the following section: 5

“25A. (1) For the purpose of carrying out its functions under this Act, the Tribunal shall, subject to the provisions of this Act, be a commission of inquiry under the Commissions of Inquiry Act 1908, and all the provisions of that Act, except sections 4A, 11, and 12, shall apply accordingly. 10

“(2) Any disputed point of law referred by the Tribunal under section 10 of the Commissions of Inquiry Act 1908 shall be heard and determined by the Court of Appeal. 15

“(3) No question as to the construction of any award shall be referred by the Tribunal under section 10 of the Commissions of Inquiry Act 1908.”

(2) Section 24 (4) of the principal Act is hereby repealed.

**21. Consequential amendments**—The principal Act is hereby amended in the manner indicated in the Fourth Schedule to this Act. 20



SCHEDULES

FIRST SCHEDULE

Section 6 (1)

CONSEQUENTIAL AMENDMENTS OF INDUSTRIAL RELATIONS ACT 1973

Section Affected	Amendment
<p>Section 2 (1) .....</p>	<p>By omitting from the definitions of the terms "agreement" and "award" the words "Industrial Commission" wherever they appear, and substituting in each case, the words "Arbitration Court".</p> <p>By omitting from the definition of the term "arbitration proceedings" the word "Commission", and substituting the word "Court".</p> <p>By repealing the definitions of the terms "Commission", "President", and "Registrar of the Commission".</p> <p>By omitting from the definitions of the term "Court", and also from the definition of the term "Registrar of the Court" the word "Industrial", and substituting in each case the word "Arbitration".</p> <p>By omitting the definition of the term "Judge", and substituting the following definition:</p> <p style="padding-left: 40px;">"Judge" means a Judge of the Arbitration Court; and includes a temporary Judge."</p>
<p>Sections 63 (4), 64 (6), 65 (as amended by section 2 of the Industrial Relations Amendment Act 1975), 66 (3), 67, 68 (as amended by section 7 of the Industrial Relations Amendment Act (No. 2) 1976), 70 (1) (as amended by section 8 (1) of the Industrial Relations Amendment Act (No. 2) 1976), and 72A (as inserted by section 9 of the Industrial Relations Amendment Act (No. 2) 1976)</p>	<p>By omitting the word "Commission" wherever it appears, and substituting in each case the word "Court".</p>

FIRST SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS OF INDUSTRIAL RELATIONS ACT 1973—*continued*

Section Affected	Amendment
Section 80 .....	By omitting the word "Industrial", and substituting the word "Arbitration".
Section 81 (a) .....	By omitting the word "Commission", and substituting the word "Court".
Section 81 (b) .....	By omitting the word "Industrial", and substituting the word "Arbitration".
Section 82 .....	By omitting from subsections (2), (3), (5), (6), (7), and (8) the word "Commission" wherever it appears, and substituting in each case the word "Court". By omitting from subsection (9) (as added by section 10 (2) of the Industrial Relations Amendment Act (No. 2) 1976) the words "Industrial Commission" in both places where they appear, and substituting in each case the word "Court".
Sections 83, 83A (as inserted by section 12 of the Industrial Relations Amendment Act (No. 2) 1976), 84, 85, 86 (1), 86 (3) (c), and 86 (4)	By omitting the word "Commission" wherever it appears, and substituting in each case the word "Court".
Section 86 .....	By omitting from subsection (1), and also from paragraph (b) of subsection (3) the word "Commission's", and substituting in each case the word "Courts". By repealing paragraph (a) of subsection (3), and substituting the following paragraph: " (a) Be signed by a Judge: ".
Sections 87, 88, 89, 90, 91, 92, 93, 94, 95 (1), 96, 97, 99 (as amended by section 15 (1) of the Industrial Relations Amendment Act (No. 2) 1976), 100 and 101	By omitting the word "Commission" wherever it appears, and substituting in each case the word "Court".
Section 101B (as inserted by section 16 of the Industrial Relations Amendment Act (No. 2) 1976)	By omitting from subsection (6) the word "Industrial", and substituting the word "Arbitration". By omitting from subsection (10) the word "Commission", and substituting the word "Court".

FIRST SCHEDULE—*continued*

CONSEQUENTIAL AMENDMENTS OF INDUSTRIAL RELATIONS ACT 1973—*continued*

Section Affected	Amendment
Sections 101C (as inserted by section 16 of the Industrial Relations Amendment Act (No. 2) 1976), 101D (as so inserted), 104, 113 (a), 114, and 115 (3)	By omitting the word "Commission" wherever it appears, and substituting in each case the word "Court".
Section 115 (4) (as added by section 18 of the Industrial Relations Amendment Act (No. 2) 1976)	By omitting the word "Industrial", and substituting the word "Arbitration".
Section 116 .....	By omitting from subclause (4) (b), and also from subclause (6), of the clause set out in that section the word "Industrial" wherever it appears, and substituting in each case the word "Arbitration".
Section 117 .....	By omitting from subsection (3) the word "Commission", and substituting the word "Court". By omitting from subsection (3A) (as inserted by section 19 of the Industrial Relations Amendment Act (No. 2) 1976) and also from subsection (4) (g), the word "Industrial", and substituting the word "Arbitration".
Section 118 (1) .....	By omitting the word "Industrial", and substituting the word "Arbitration".
Section 119 .....	By omitting from subsection (1) the word "Industrial", and substituting the word "Arbitration".
Section 125 (as substituted by section 21 of the Industrial Relations Amendment Act (No. 2) 1976)	By omitting from subsection (3) (b) the word "Commission" in both places where it appears, and substituting in each case the word "Court".
Section 125 (as substituted by section 21 of the Industrial Relations Amendment Act (No. 2) 1976)	By omitting from subsection (1), and also from subsection (3) and subsection (5), the word "Industrial", and substituting in each case the word "Arbitration".

FIRST SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS OF INDUSTRIAL RELATIONS ACT 1973—*continued*

Section Affected	Amendment
Section 125A (as substituted by section 21 of the Industrial Relations Amendment Act (No. 2) 1976)	By omitting from subsections (1), (3), and (4) the word "Industrial" wherever it appears, and substituting in each case the word "Arbitration".
Sections 126 and 127 .....	By omitting the word "Commission" wherever it appears, and substituting in each case the word "Court".
Section 128 (3) .....	By omitting the word "Industrial", and substituting the word "Arbitration".
Sections 139 and 140 .....	By omitting the word "Commission" wherever it appears, and substituting in each case the word "Court".
Section 141 .....	By omitting from subsection (1) the word "Commission", and substituting the word "Court".
	By omitting from subsection (4) the word "Industrial", and substituting the word "Arbitration".
Section 144 (as amended by section 25 of the Industrial Relations Amendment Act (No. 2) 1976)	By omitting the word "Industrial" wherever it appears, and substituting in each case the word "Arbitration".
Sections 145 and 146 .....	By repealing these sections, and substituting the following sections: <p data-bbox="626 1171 1081 1566">"145. Contempt of conciliation council or Court—(1) If in any proceedings before a conciliation council or the Arbitration Court any person wilfully insults any member or officer of the council or Court, or wilfully interrupts the proceedings, or without good cause refuses to give evidence, or is guilty in any other manner of any wilful contempt in the face of the council or Court, it shall be lawful for any officer of the council or Court, or any member of the Police, to take the person offending into custody and remove him from the precincts of the council or Court, to be detained until its rising.</p>

FIRST SCHEDULE—*continued*

CONSEQUENTIAL AMENDMENTS OF INDUSTRIAL RELATIONS ACT 1973—*continued*

Section Affected	Amendment
Sections 145 and 146— <i>continued</i>	<p>“(2) Every person so offending shall be liable on conviction by the Arbitration Court to a fine not exceeding \$100.</p> <p>“146. Obstruction of conciliation council or Court—Every person who prints or publishes anything calculated to obstruct or in any way interfere with or prejudicially affect any matter before a conciliation council or the Arbitration Court is liable on conviction by the Arbitration Court to a fine not exceeding \$200.”</p>
Sections 146A (as inserted by section 26 of the Industrial Relations Amendment Act (No. 2) 1976) and 147	By omitting the word “Industrial” wherever it appears, and substituting in each case the word “Arbitration”.
Section 158 .....	By omitting from subsection (1) (as substituted by section 30 (1) of the Industrial Relations Amendment Act (No. 2) 1976) the word “Industrial”, and substituting the word “Arbitration”.
Section 167 .....	By omitting the words “, the Commission,”.
Section 175 (e) .....	By omitting the words “, the Commission,”.
Section 193 .....	By omitting from subsections (3), (5), and (6) the word “Commission” wherever it appears, and substituting in each case the word “Court”.
Section 196 (1) (c) .....	By omitting the word “Commission”, and substituting the word “Court”.
Section 197 (3) .....	By omitting the words “of the Commission or”.
Sections 214 (2) and 215 (1)	By omitting the word “Commission” wherever it appears, and substituting in each case the word “Court”.

FIRST SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS OF INDUSTRIAL RELATIONS ACT 1973—  
*continued*

Section Affected	Amendment
Section 216A (as inserted by section 84 of the Fire Service Act 1975)	By repealing subsection (3), and substituting the following subsection: “(3) In applying the provisions of this Act, other than Part XII and Part XIII, in respect of any organisation of workers to which this section applies, every reference to the Arbitration Court shall be read as if it were a reference to the Public Sector Tribunal established under <u>the State Services Conditions of Employment Act 1977 and the Public Sector Tribunal</u> shall have and may exercise the functions, duties, and powers of the Arbitration Court.”
Section 217 (1) .....	By omitting the words “the Commission or”.
Sections 223 to 225 .....	By repealing these sections, and substituting the following sections: “223. Powers of entry of Court—(1) The Court, and, on being authorised in writing by the Court, any member of the Court, or any officer of the Court, or any other person, without any other warrant than this Act, may at any time— “(a) Enter upon any building, office, ship, or place in which or in respect of which any industry is carried on or any work is being or has been done or commenced or any matter or thing is taking or has taken place, that is made the subject of a reference to the Court: “(b) Inspect and view any work, material, machinery, appliances, article, matter, or thing whatsoever being in any such building, office, ship, or place: “(c) Interrogate any person or persons who may be in or upon any such building, office, ship, or place in respect of or in relation to any matter or thing hereinbefore mentioned.

FIRST SCHEDULE—*continued*

CONSEQUENTIAL AMENDMENTS OF INDUSTRIAL RELATIONS ACT 1973—  
*continued*

Section Affected	Amendment
<p>Sections 223 to 225— <i>continued</i></p>	<p>“(2) Every person who hinders or obstructs the Court, or any member or officer of the Court, or other person, in the exercise of any power conferred by this section, or who refuses to the Court, or any such member or officer or other person, duly authorised as aforesaid, entrance during any such time as aforesaid to any such building, office, ship, or place, or refuses to answer any question put to him as aforesaid, shall be liable on conviction by the Arbitration Court to a fine not exceeding \$100.</p> <p>“224. <b>Proceedings of Court to be public</b> —(1) Subject to the provisions of this section, the proceedings of the Court shall be conducted in public.</p> <p>“(2) At any stage of the proceedings before it the Court, of its own motion or on the application of any of the parties, may direct that the proceedings be conducted in private; and in that case all persons (other than the parties, their representatives, the officers of the Court, and any witness under examination) shall withdraw.</p> <p>“(3) The Court may in any case deliberate in private as to its decision on any matter or as to any question arising in the course of any proceedings.</p> <p>“225. <b>Appointment of experts as assessors to Court</b>—Whenever any dispute or other matter involving technical questions is referred to the Court the following special provisions shall apply:</p> <p>“(a) At any stage of the proceedings the Court may direct that 2 experts nominated by the parties shall sit with the Court as experts:</p>

FIRST SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS OF INDUSTRIAL RELATIONS ACT 1973—  
*continued*

Section Affected	Amendment
Sections 223 to 225— <i>continued</i>	<p>“(b) One of the experts shall be nominated by the party, or, as the case may be, by all the parties, whose interests are with the employers; and one by the party, or, as the case may be, by all the parties, whose interests are with the workers:</p> <p>“(c) The experts shall be nominated in such manner as the Court directs, but shall not be deemed to be members of the Court for the purpose of disposing of the matter:</p> <p>“(d) The powers conferred on the Court by this section shall, while the Court is not sitting, be exercisable by a Judge of the Court.”</p>
Section 226 .....	<p>By omitting from subsection (1) the words “Commission if the matter is within its jurisdiction, or the Court if the matter is within its jurisdiction,” and substituting the word “Court”.</p> <p>By omitting from subsection (2) the word “Industrial”, and substituting the word “Arbitration”.</p>
Section 227 .....	<p>By repealing this section, and substituting the following section:</p> <p>“227. Documents under seal and certain signatures to be judicially noticed—</p> <p>(1) Every document bearing the seal of the Court shall be received in evidence without further proof, and the signature of a Judge of the Court, or a conciliator, or the Registrar of Industrial Unions, or the Registrar of the Court, shall be judicially noticed in or before any Court or before any person or officer acting judicially or under any power or authority conferred by this Act, if the signature is attached to some award, order, certificate, or other official document made or purporting to be made under this Act or any enactment mentioned in the Fourth Schedule to this Act.</p>



FIRST SCHEDULE—*continued*

CONSEQUENTIAL AMENDMENTS OF INDUSTRIAL RELATIONS ACT 1973—*continued*

Section Affected	Amendment
Section 227— <i>continued</i>	“(2) No proof shall be required of the handwriting or official position of any person acting in pursuance of this section.”
Section 228 .....	By omitting the words “the Commission or” and the words “of the Commission or”.
Section 229 .....	By omitting from subsection (1) the words “the Commission or”. By repealing subsection (2). By omitting from subsection (4) the words “the Judge”, and substituting the words “a Judge”.
Section 232 .....	By repealing paragraph (b), and substituting the following paragraph: “(b) Prescribing the duties of the Registrar of the Arbitration Court, and of any other officers or persons acting in the execution of this Act:”. By omitting from paragraph (c) the words “or the Commission”. By omitting from paragraph (d) the word “Industrial”, and substituting the word “Arbitration”.
Third Schedule .....	By repealing so much thereof as relates to the Sharemilking Agreements Act 1937, the Statutes Amendment Act 1945, the Minimum Wage Act 1945, the Statutes Amendment Act 1947, the Waterfront Industry Act 1953, the Government Superannuation Fund Act 1956, the Oaths and Declarations Act 1957, the Technicians Training Act 1967, and the Judicature Amendment Act 1972. By repealing so much thereof as relates to paragraphs (b) to (d) of section 5 (1) and to section 12 of the Aircrew Industrial Tribunal Act 1971.

## SECOND SCHEDULE

Section 6 (2)

## ENACTMENTS AMENDED

Act Amended	Amendment
1937, No. 37—The Sharemilking Agreements Act 1937 (1957 Reprint, Vol. 13, p. 771)	By omitting from subsections (1) and (4) of section 4 (as amended by section 234 (1) of the Industrial Relations Act 1973), and also from subsection (1) of section 5 (as amended by section 75 of the Statutes Amendment Act 1945 and by section 234 (1) of the Industrial Relations Act 1973), the words "Industrial Court", and substituting in each case the words "Arbitration Court".
1944, No. 5—The Annual Holidays Act 1944 (Reprinted 1975, Vol. 2, p. 1677)	By omitting from the definition of the term "agreement" in section 2 (1) (as substituted by section 234 (1) of the Industrial Relations Act 1973) the words "Industrial Commission", and substituting the words "Arbitration Court".
1945, No. 40—The Statutes Amendment Act 1945 (1957 Reprint, Vol. 13, p. 773)	By omitting from subsections (2), (3), and (4) of section 75 (as amended by section 234 (1) of the Industrial Relations Act 1973) the words "Industrial Court", and substituting in each case the words "Arbitration Court".
1945, No. 44—The Minimum Wage Act 1945 (1957 Reprint, Vol. 9, p. 861)	By omitting from subsection (3) of section 2 (as substituted by section 2 (1) of the Minimum Wage Amendment Act 1952 and as amended by section 234 (1) of the Industrial Relations Act 1973) the words "Industrial Commission", and substituting the words "Arbitration Court".
1947, No. 60—The Statutes Amendment Act 1947 (Reprinted 1975, Vol. 2, p. 1686)	By omitting from section 4 (2) (as amended by section 234 (1) of the Industrial Relations Act 1973) the words "Industrial Court", and substituting the words "Arbitration Court".
1948, No. 22—The Apprentices Act 1948 (Reprinted 1977, Vol. 3, p. 2229)	By repealing the definition of the term "Court" in section 2 (1) (as amended by section 2 (1) of the Apprentices Amendment Act 1974), and substituting the following definition: "Court" means the Arbitration Court constituted under the Industrial Relations Act 1973."
1955, No. 32—The Shops and Offices Act 1955 (1957 Reprint, Vol. 14, p. 431)	By repealing the definition of the term "award" in section 2 (1) (as amended by section 38 (1) of the Industrial Relations Amendment Act (No. 2) 1976), and substituting the following definition:

SECOND SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

Act Amended	Amendment
1955, No. 32—The Shops and Offices Act 1955 (1957 Reprint, Vol. 14, p. 431)— <i>continued</i>	“ ‘Award’ means an award made by the Arbitration Court; and includes a collective agreement registered by the Arbitration Court under section 82 of that Act.”
1956, No. 47—The Government Superannuation Fund Act 1956 (Reprinted 1975, Vol. 4, p. 3263)	By omitting from paragraph (b) of the definition of the term “Judge” in section 75 (as substituted by section 10 (2) of the Government Superannuation Fund Amendment Act 1964 and as amended by section 234 (1) of the Industrial Relations Act 1973) the words “of the Industrial Court”, and substituting the words “of the Arbitration Court”.
1957, No. 88—The Oaths and Declarations Act 1957 (1957 Reprint Vol. 11, p. 381)	By omitting from section 22 (2) (a) (as amended by section 234 (1) of the Industrial Relations Act 1973) the words “the Judge of the Industrial Court”, and substituting the words “the Judges of the Arbitration Court”.
1963, No. 65—The Local Authorities (Employment Protection) Act 1963	By omitting from the Second Schedule (as amended by section 234 (1) of the Industrial Relations Act 1973) the words “The Judge of the Industrial Court”, and substituting the words “The Judges of the Arbitration Court”.
1967, No. 161—The Technicians Training Act 1967	By omitting from section 3 (5) (as amended by section 234 (1) of the Industrial Relations Act 1973) the words “award of the Industrial Commission, or by an agreement, or by an order made by the Industrial Court”, and substituting the words “award of the Arbitration Court or by an agreement or by an order made by the Arbitration Court”. By repealing the definition of the term “Commission” and “Industrial Commission” in section 2 (as amended by section 234 (1) of the Industrial Relations Act 1973); and by inserting in that section, after the definition of the term “contract” the following definition: “ ‘Court’, or ‘Arbitration Court’, means the Arbitration Court constituted under the Industrial Relations Act 1973.”

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Act Amended	Amendment
1967, No. 161—The Technicians Training Act 1967— <i>continued</i>	<p>By omitting from the proviso to section 4 (1) (c), and also from subsections (3) and (4) of section 4, (as amended by section 234 (1) of the Industrial Relations Act 1973), the word “Commission” wherever it appears, and substituting in each case the word “Court”.</p> <p>By omitting from section 4 (5), section 17 (7), section 19, and section 20 (as amended by section 234 (1) of the Industrial Relations Act 1973) the words “Registrar of the Industrial Commission”, and substituting the words “Registrar of the Arbitration Court”.</p> <p>By omitting from subsections (3) to (6) of section 17 (as amended by section 234 (1) of the Industrial Relations Act 1973) the word “Commission” wherever it appears, and substituting in each case the word “Court”.</p> <p>By omitting from subsections (3), (5), (6), (7), and (8) of section 21 the words “Industrial Court”, wherever they occur in those subsections, and substituting in each case the words “Arbitration Court.”</p>
1971, No. 5—The Aircrew Industrial Tribunal Act 1971	<p>By repealing paragraphs (b) to (d) of section 5 (1) (as substituted by section 234 (1) of the Industrial Relations Act 1973), and substituting the following paragraphs:</p> <p>“(b) Section 175 shall be read as if there were omitted from paragraph (e) the words ‘collective agreements and any other’, and as if there were substituted for the words ‘a conciliation council or the Court’ the words ‘the Aircrew Industrial Tribunal, or a conciliation council, constituted under the Aircrew Industrial Tribunal Act 1971’:</p> <p>“(c) Section 193 shall be read as if there were substituted for the word ‘Court’ in subsection (3) the words ‘Aircrew Industrial Tribunal’, and as if subsections (5) and (6) were repealed:</p>

SECOND SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

Act Amended	Amendment
<p>1971, No. 5—The Aircrew Industrial Tribunal Act 1971—<i>continued</i></p>	<p>“(d) Section 196 shall be read as if there were substituted for the word ‘Court’ in paragraph (c) of subsection (1), the words ‘Aircrew Industrial Tribunal.’”</p>
<p>1972, No. 118—The Equal Pay Act 1972 (Reprinted 1973, Vol. 2, p. 1379)</p>	<p>By omitting from section 12 (as amended by section 234 (1) of the Industrial Relations Act 1973) the words “Industrial Court”, and substituting the words “Arbitration Court”.</p> <p>By repealing the definition of the term “award” (as substituted by section 5 of the Equal Pay Amendment Act 1973, and as amended by section 62 (2) of the Agricultural Workers Act 1977) in section 2 (1), and substituting the following definition:</p> <p>“‘Award’ means an award made under the Industrial Relations Act 1973 or any corresponding former Act, the Aircrew Industrial Tribunal Act 1971, or the Agricultural Workers Act 1977; and includes an agreement deemed to be an award by section 33 (2) of the Agricultural Workers Act 1977:</p> <p>By repealing the definition of the term “Commission” (as substituted by section 5 of the Equal Pay Amendment Act 1973) in section 2 (1).</p> <p>By repealing the definition of the term “Court” or “Industrial Court” (as substituted by section 5 of the Equal Pay Amendment Act 1973) in section 2 (1), and substituting the following definition:</p> <p>“‘Court’ or ‘Arbitration Court’ means the Arbitration Court constituted under the Industrial Relations Act 1973.”</p> <p>By omitting from paragraph (ba) of the definition of the term “instrument” in section 2 (1) (as amended by section 5 of the Equal Pay Amendment Act 1973) the word “Commission”, and substituting the word “Court”.</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Act Amended	Amendment
<p>1972, No. 118—The Equal Pay Act 1972 (Reprinted 1973, Vol. 2, p. 1379)—<i>contd.</i></p>	<p>By omitting from section 4 (2) (a) (as amended by section 5 of the Equal Pay Amendment Act 1973) the word “Commission”, and substituting the word “Court”.</p> <p>By omitting from sections 4 (3), 5, 6 (7), 8 (3), 9, 10, and 11 (as amended by section 5 of the Equal Pay Amendment Act 1973) the word “Commission” wherever it occurs, and substituting in each case the word “Court”.</p> <p>By repealing section 12 (as substituted by section 5 of the Equal Pay Amendment Act 1973), and substituting the following section:</p> <p>“12. <b>Further powers of Court</b>—Without limiting any other power of the Court, whether under this Act or otherwise, the Court may—</p> <p>“(a) Determine the classification of any work, any rate of remuneration that would represent equal pay, the minimum percentage for the adjustment of any rate of remuneration of female employees, and any interim increase in remuneration required to be granted to implement equal pay, pursuant to section 4 or, as the case may be, section 5 of this Act:</p> <p>“(b) Determine any question arising under subsection (1) of section 6, or, as the case may require, section 7, of this Act relating to the steps to be taken under the said section 6 or section 7, as the case may require, for the reduction of the differential in any rates of remuneration of female employees and of male employees:</p> <p>“(c) Determine any other question relating to the implementation of equal pay that may be referred to it pursuant to this Act:</p>

SECOND SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

Act Amended	Amendment
<p>1972, No. 118—The Equal Pay Act 1972 (Reprinted 1973, Vol. 2, p. 1379)—<i>contd.</i></p>	<p>“(d) Determine any question of law, including the interpretation of this Act, in relation to any instrument arising out of this Act that is referred to it by any party to any instrument or the representative of any party, or by the appropriate authority, or by an Inspector:</p> <p>“(e) Determine such other questions and give such rulings as may be necessary for the exercise of its jurisdiction under this Act.”</p> <p>By omitting from section 13 (1) (as amended by section 5 (1) of the Equal Pay Amendment Act 1976) the word “Commission”, and substituting the words “Industrial Commission or by the Arbitration Court”.</p> <p>By omitting from section 13 (1) (as amended by section 5 of the Equal Pay Amendment Act 1973), and also from section 13 (2) (as so amended) the words “Industrial Court”, and substituting in each case the words “Arbitration Court”.</p> <p>By omitting from section 14 (1) (as amended by section 5 of the Equal Pay Amendment Act 1973) the words “or the Commission” and the words “or the Commission, as the case may be”.</p> <p>By omitting from subsections (2), (3), (4), (5), and (6) of section 14 (as amended by section 5 of the Equal Pay Amendment Act 1973) the words “Industrial Court” wherever they occur, and substituting in each case the words “Arbitration Court”.</p>
<p>1972, No. 130—The Judicature Amendment Act 1972</p>	<p>By omitting from the definition of the term “person” in section 3 (as amended by section 234 (1) of the Industrial Relations Act 1973) the words “the Industrial Court, the Industrial Commission”, and substituting the words “the Arbitration Court”.</p>

*Industrial Law Reform*SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Act Amended	Amendment
1973, No. 23—The Equal Pay Amendment Act 1973	<p>By omitting from the second column of the Schedule the first two items relating to section 2 (1) of the Equal Pay Act 1972.</p> <p>By omitting from the Schedule—</p> <p>(a) The item relating to sections 4 (3), 5, 6 (7), 8 (3), 9, 10, and 11 of the Equal Pay Act 1972:</p> <p>(b) The item relating to section 12 of the Equal Pay Act 1972.</p> <p>By omitting from the second column of the Schedule the item relating to section 13 (2) of the Equal Pay Act 1972.</p> <p>By omitting from the second column of the Schedule the first three items relating to section 14 of the Equal Pay Act 1972.</p>
1975, No. 113—The Commerce Act 1975 (Reprinted 1976, Vol. 3, p. 2445)	<p>By omitting from sections 119c and 119e (as inserted by section 36 of the Commerce Amendment Act 1976) the words "Industrial Court" wherever they appear, and substituting in each case the words "Arbitration Court".</p>
1977, No. 00—The Human Rights Commission Act 1977	<p>By repealing the definition of the term "Industrial Court" in <u>section 2</u>, and inserting in that section, in its appropriate alphabetical order, the following definition:</p> <p>"Arbitration Court" means the Arbitration Court constituted under the Industrial Relations Act 1973:".</p> <p>By omitting from <u>section 62</u> the words "Industrial Court", and substituting the words "Arbitration Court".</p>

## THIRD SCHEDULE

Section 7

## ENACTMENTS REPEALED

- 1974, No. 76—The Apprentices Amendment Act 1974.
- 1976, No. 49—The Equal Pay Amendment Act 1976: Section 5 (1).
- 1976, No. 63—The Industrial Relations Amendment Act (No. 2) 1976: Sections 2, 3 (1), 4, 5, and 38 (1).



FOURTH SCHEDULE

Section 21

CONSEQUENTIAL AMENDMENTS OF AGRICULTURAL WORKERS ACT 1977

Section Affected	Amendment
Section 2 .....	<p>By repealing the definition of the term "Industrial Court" in subsection (1), and inserting in that subsection, in its appropriate alphabetical order, the following definition:</p> <p style="padding-left: 40px;">" 'Arbitration Court' means the Arbitration Court constituted under the Industrial Relations Act 1973:".</p> <p>By repealing subsection (2), and substituting the following subsection:</p> <p style="padding-left: 40px;">"(2) For the purposes of this Act, every reference in this Act and the Industrial Relations Act 1973 to the Arbitration Court shall be read as a reference to a Judge of that Court acting alone."</p>
Section 15 .....	By omitting the word "Industrial", and substituting the word "Arbitration".
Section 18 .....	By omitting from subsection (1) the words "the Judge of the Industrial Court", and substituting the words "a Judge of the Arbitration Court".
Section 20 .....	By repealing subsection (2). By omitting the words "Industrial Commission", and substituting the words "Arbitration Court".
Section 23 .....	By repealing this section.
Section 29 .....	By omitting from paragraphs (b) to (e) the word "Industrial" wherever it appears, and substituting in each case the word "Arbitration".
Section 39 .....	By omitting from subsection (1) (f) of, and also from subsections (2) and (4), the word "Industrial" wherever it appears, and substituting in each case the word "Arbitration".
Section 43 .....	By omitting from subsection (1), and also from subsection (2), the words "Industrial Court", and substituting in each case the words "Arbitration Court".
Section 44 .....	By omitting from subsection (1) the word "Industrial", and substituting the word "Arbitration".