

AMENDED : See Act, 1925 No. 36.

New Zealand.

Amended by 1927 No. 28.



ANALYSIS.

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1923, No. 41.

AN ACT to amend the Law relating to Apprentices.

Title

[29th August, 1923.]

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

1. (1.) This Act may be cited as the Apprentices Act, 1923, and shall, save as provided in the next succeeding subsection, come into force on the first day of April, nineteen hundred and twenty-four.

Short Title and commencement.

(2.) Section eighteen hereof shall come into force on the first day of November, nineteen hundred and twenty-three.

2. (1.) In this Act, unless the context otherwise requires,—

Interpretation.

“Apprentice” means any person of either sex who has contracted to serve an employer and to learn and be taught any industry :

“Agreement” means an industrial agreement filed under section twenty-six of the Industrial Conciliation and Arbitration Act, 1908, or an agreement filed under section eight of the Labour Disputes Investigation Act, 1913 :

“Award” means an award of the Court of Arbitration under the Industrial Conciliation and Arbitration Act, 1908 :

“Committee” means an Apprenticeship Committee :

“Court” means the Court of Arbitration constituted under the Industrial Conciliation and Arbitration Act, 1908 :

“District Registrar” means a District Registrar of Apprentices :

“Employer” includes persons, firms, companies, and corporations employing one or more workers :

“Industry” means any business, trade, manufacture, undertaking, calling, or employment in which workers are employed, and includes a branch thereof :

“Minister” means the Minister of Labour :

“Registrar” means the Registrar of Apprentices.

(2.) In the exercise of the powers conferred upon it by this Act the Court shall be deemed to act as a controlling authority rather than in its ordinary judicial capacity, save that nothing herein shall be construed to limit the powers of the Court in the exercise of its functions for the purposes of this Act.

Application of Act.

3. (1.) This Act shall apply only to those employers (and to their apprentices) who are at the time of the coming into operation of this Act bound by an award or agreement making provision for apprentices, whether exempted from the operation of such provision or not, or who may hereafter become so bound by any such award or agreement or by any award or agreement substantially applying to the same industry and locality, and to such other employers and apprentices as the Court may by order direct.

(2.) Notwithstanding anything contained in subsection one hereof, nothing in this Act shall apply—

(a.) To the apprenticeship of any female, save in such cases and on such conditions as the Court may by order direct :

(b.) To any student of a university or other educational institution who is exempted by order of the Court.

(3.) In so far as any provisions of this Act are in conflict with any Act making specific provision for the training of workers in any industry the provisions of this Act shall be deemed to have no application.

(4.) This Act shall not apply to any contract of apprenticeship that has been in force for a period exceeding two years at the time when this Act would otherwise apply thereto.

(5.) The Court shall have power by order to make such adjustments or alterations as it may think fit of any contract of apprenticeship to which this Act applies that has been entered into prior to the application of this Act thereto, and may by order call upon the parties thereto to reduce the terms of any such contract to writing, and any alteration or adjustment made by the Court pursuant to this subsection shall, as from a date to be specified in the order, be deemed to be included in the terms of the contract.

Provision for
appointment of
Apprenticeship
Committees.

4. (1.) Where there exists in any industry or group of industries to which this Act applies an organization of employers and an organization of workers (whether registered under any Act or not) and such organizations agree in writing to the appointment of an Apprenticeship Committee for a specified locality, they may register such agreement in

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the prescribed manner, and such Committee shall thereupon be deemed to be an Apprenticeship Committee having the same powers as a Committee appointed by the Court under the next succeeding subsection.

(2.) The Court may at any time, on its own motion or on the application of any person interested, appoint a Committee in any industry or group of industries in any locality in which no Committee has been agreed upon under the last preceding subsection.

(3.) Every Committee shall consist of an equal number of representatives of employers and of workers, together with such other persons (if any) as the Court may direct or the parties may agree upon, as the case may be. *Take in addition 1930 Inset.*

(4.) The Court may at any time, on the application of any person interested, or of its own motion, remove or replace any member of a Committee, or may discharge any Committee, or may extend or reduce the limits of the locality in which a Committee shall exercise its functions.

(5.) Save in special cases authorized by the Minister, no fees or allowances shall be payable to members of a Committee.

5. (1.) As soon as practicable after the coming into operation of this Act, and from time to time as may be necessary, the Court shall make such order or orders as it may think fit in respect of each industry or branch thereof to which this Act applies prescribing—

Court may make orders governing apprenticeships.

(a.) The wages, hours, and other conditions of employment to be incorporated in contracts of apprenticeship in any specified industry and locality :

Provided that in no case shall the hours of employment of an apprentice be greater than the maximum (if any) prescribed by statute or by award or agreement for other workers in the industry and locality, nor shall an apprentice be employed at any time when the employment of other workers in the industry and locality would be a breach of any statute or of any award or agreement :

(b.) The proportion of the total number of apprentices to the total number of journeymen that may be employed in any industry or group of industries in any locality :

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(c.) The period of apprenticeship in any industry :

(d.) The minimum age at which a person may commence to serve as an apprentice in any industry.

(2.) The Court may at any time cancel or amend any such order in respect of any locality.

(3.) Before making any such order, amendment, or cancellation the Court shall afford the employers and the workers in the industry, and any other persons whom the Court may deem to be concerned, an opportunity of being heard and of adducing evidence in respect thereof :

Provided that where, in the opinion of the Court, a proposed amendment of an order is of a routine or trivial nature it shall not be necessary to hear formal evidence in respect thereof.

(4.) Without in any way limiting the general powers conferred upon it by the foregoing provisions of this section, the Court shall also have power—

- (a.) To require any employer to employ and to continue to employ such number of apprentices as the Court may consider necessary to ensure an adequate supply of journeymen in the interests of the industry :
- (b.) To cancel any contract of apprenticeship :
- (c.) To prohibit, on such grounds and on such conditions as the Court may think fit, any employer from employing or continuing to employ an apprentice :
- (d.) To order the transfer of any apprentice from an employer to any other employer who is willing and able to undertake the obligations of the original employer :
- (e.) To require an employer to give to an apprentice further facilities within the scope of his business to enable the apprentice to acquire a proper knowledge of the industry :
- (f.) To fix the period of probation to be served by an apprentice in any industry :
- (g.) To order the attendance of any apprentice or apprentices at a technical school or other place where suitable training is available (whether during the ordinary hours of employment or otherwise) in any case where the Court is of opinion that sufficient facilities for the complete training of the apprentice are not provided by the employer and where the Minister of Education has certified that suitable accommodation and training are available at such school or place :
- (h.) To order any apprentice or apprentices to submit to such examination as the Court may prescribe :
- (i.) To order that any increase in wages due to an apprentice may be withheld by the employer for such period as the Court may think fit :
- (j.) To order that the period during which any increase is withheld under the last preceding paragraph shall not be deemed to be included in the period of apprenticeship :
- (k.) To enter at all reasonable times upon any premises where an apprentice is employed, and to inquire into the training, progress, and welfare of such apprentice, and to delegate such powers to any person or persons appointed in writing in that behalf :

Provided that if the powers referred to in this paragraph are delegated by the Court to any Committee, the Committee may delegate such powers ^{made in subsection 1930 hereof} only to one member of the Committee representative of the employers and one member representative of the workers, who shall act together :—

- (l.) To determine the number or proportion of apprentices to journeymen that may be employed by any employer :

Provided that if the power referred to in this paragraph is delegated by the Court to any Committee any order made by the Committee shall be subject to any order of the Court made under paragraph (b) of subsection one hereof.

(5.) Where a Committee has been set up in connection with the industry and locality concerned, the Court shall, in making any order under this section, take into account any recommendation that may be made by the Committee.

6. (1.) Where a Committee has been appointed the Court may delegate to such Committee any or all of the powers conferred upon it by paragraphs (b) to (l) of subsection four of the last preceding section in so far as those powers relate to the industry and the locality in connection with which the Committee has been appointed, and may at any time and from time to time withdraw any such power or powers from the Committee.

Court may delegate powers to Apprenticeship Committee.

(2.) Any person affected by the decision of such a Committee in any matter may in the prescribed manner appeal to the Court, whose decision shall be final and conclusive.

7. (1.) There shall be a Registrar of Apprentices, who shall be the person for the time being holding the office of Secretary for Labour, and any Inspector of Factories may be appointed to be a District Registrar of Apprentices.

Registrar of Apprentices and District Registrars.

(2.) Every District Registrar ~~shall be appointed for a specified~~ district, and shall be subject to the direction and control of the Registrar.

Refer 1930 Inset

8. (1.) Every contract of apprenticeship, or alteration thereof, to which this Act applies made after the coming into operation of this Act shall be in writing, signed by the employer and the apprentice, and, if the apprentice is under the age of twenty-one years, by the parent or guardian (if any) of the apprentice, ~~and shall be registered by the employer in the prescribed manner, within fourteen days of the date thereof, with the District Registrar for the locality concerned~~

Contracts of apprenticeship to be in writing, and to be registered.

Provided that if the employer fails to carry out his obligation under this subsection any party to the contract may register the contract within twenty-eight days of the date thereof.

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(2.) No contract or alteration of a contract to which this Act applies shall have any validity unless and until it has been duly registered. **ADD hereto**

(3.) If the District Registrar is of opinion in any case that a proposed contract of apprenticeship, or any alteration thereof, submitted for registration is in any respect contrary to the provisions of this Act, or the regulations thereunder, or of any order of the Court or of a Committee, he may refuse to register such proposed contract or alteration.

(4.) If the District Registrar is of opinion in any case that for any other reason a proposed contract of apprenticeship, or alteration thereof, should not be registered, he may withhold registration until he has submitted such proposed contract, or alteration thereof, to the Committee (if any) for the industry and locality concerned, or, if there is no such Committee, to the Court, and shall register or refuse to register such proposed contract or alteration in accordance with the decision of the Committee or the Court, as the case may be.

(5.) Any person affected by the refusal of the District Registrar to register a proposed contract of apprenticeship, or any alteration thereof, may appeal in the prescribed manner to the Court, whose decision shall be final and conclusive.

(6.) In any case where an appeal has been lodged against a refusal to register a proposed contract of apprenticeship, or alteration thereof, the District Registrar, if he thinks fit, may, on application, grant a permit in the prescribed form for the employment of the worker in accordance with the proposed contract or alteration pending the decision of the Court.

(7.) Every contract of apprenticeship to which this Act applies that has been entered into prior to the application of this Act thereto shall be registered by the employer in the prescribed manner within fourteen days after the application of this Act thereto :

Provided that if any employer fails to carry out his obligation under this subsection any party to the contract may register the contract within twenty-eight days after the application of this Act thereto ; and provided also that failure to register any such contract shall not affect its validity.

(8.) The termination of a contract of apprenticeship prior to the expiry of the period of probation or the termination thereof by agreement of the parties or by discharge of the apprentice for good cause, and every transfer of an apprentice, shall be notified to the District Registrar by the employer in the prescribed form. Take in addition 1930 Inset.

9. (1.) It shall be the duty of the Registrar and the District Registrar to ensure that the provisions of this Act and the regulations thereunder, and of any order of the Court or of a Committee, and of any contract of apprenticeship, are duly complied with.

(2.) Any breach of a contract of apprenticeship, or of an order of the Court or of a Committee, shall be deemed to be a breach of this Act.

(3.) Proceedings for a breach of this Act shall be taken in the same manner as proceedings for a breach of award, and all the provisions of the Industrial Conciliation and Arbitration Act, 1908, relating to the enforcement of awards shall, with the necessary modifications, apply accordingly. Take in addition 1930 Inset.

(4.) All proceedings for a breach of this Act may be taken by a District Registrar :

Provided that any party to a contract of apprenticeship may take proceedings for a breach thereof.

(5.) Every employer who commits a breach of this Act shall be liable to a penalty not exceeding fifty pounds in respect of each breach, and every other person who commits a breach of this Act shall be liable to a penalty not exceeding five pounds in respect of each breach :

Provided that if the breach is a continuing one every employer shall be liable to a further penalty not exceeding five pounds, and every other person to a further penalty not exceeding ten shillings, for each day on which the breach is continued after the first day.

(6.) Every person who induces or procures any party to a contract of apprenticeship to commit a breach of this Act, or who otherwise incites, instigates, aids, or abets a breach of this Act, shall be liable to a penalty not exceeding fifty pounds.

(7.) For the purpose of enforcing the provisions of this Act the Registrar or the District Registrar may enter, inspect, and examine at all reasonable hours by day or night any premises in or about which he has reasonable cause to believe that an apprentice is employed,

Duties of Registrar
and District
Registrars to ensure
compliance with
this Act.

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and may take with him a constable to assist him in the execution of his duty.

10. Any two or more employers in any industry in the same locality may enter into a contract of apprenticeship with the same apprentice or apprentices on such terms and conditions as the Court or the Committee, as the case may be, may think fit, and such contract upon being duly registered shall be binding upon such employers jointly and severally.

Provision for joint contracts of apprenticeship.

11. Subject to any order of the Court under paragraph (d) of subsection one of section five hereof, ~~any adult or other person already in possession of knowledge or skill in the industry~~ may, with the consent of the Committee (if any) or of the Court, enter into a special contract of apprenticeship for such period and upon such terms and conditions as the Committee or the Court, as the case may be, shall consider just and equitable. *ADD hereto*

Special contracts of apprenticeship in special cases.

REFER TO INSET APPENDIX

12. (1.) An apprentice who is a party to a contract of apprenticeship under this Act shall be bound thereby throughout its currency, notwithstanding that the apprentice may have attained the age of twenty-one years.

Apprentice to be bound by contract of apprenticeship.

Amde (2.) A parent or guardian of an apprentice who is a party to a contract of apprenticeship under this Act shall be bound thereby until the apprentice attains the age of twenty-one years, and no longer.

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(3.) During the period of probation prescribed by any contract of apprenticeship the contract may be cancelled at any time by the employer or by the apprentice where the apprentice has attained the age of twenty-one years, or by the apprentice and his parent or guardian (if any) where the apprentice is under the age of twenty-one years.

Cancellation of contract.

13. (1.) If an employer at any time before the completion of a contract of apprenticeship desires to be relieved from the contract by reason of slackness of work or other sufficient cause, and the apprentice and (where the apprentice is under the age of twenty-one years) his parent or guardian (if any) do not agree to the termination of the contract or to the transfer of the apprentice to another employer, the employer may apply in the prescribed form to the District Registrar for a transfer of the apprentice to another employer in the same industry and locality willing and able to carry out the obligations of the original employer.

Relief of employers in certain cases.

(2.) The District Registrar shall thereupon inquire into the circumstances of such application, and may grant or refuse the transfer accordingly:

Provided that where a Committee has been appointed under this Act for the industry and locality the District Registrar shall refer the application to such Committee, and shall grant or refuse the transfer in accordance with the decision of the Committee.

(3.) Any party aggrieved by the decision of the District Registrar may within fourteen days appeal in the prescribed manner to the Court, whose decision shall be final and conclusive.

14. (1.) After the expiration of fourteen days from the granting of a transfer by the District Registrar, or immediately after an order directing a transfer has been made by the Court, the name of the new employer shall be deemed to be substituted in the contract of apprenticeship for that of the former employer, and the contract shall continue

Transfers of apprentices.

in all respects as if the new employer had been an original party to the contract.

(2.) The original employer shall thereupon be relieved from all obligation under the contract.

Apprentice may be discharged for misconduct or grave incapacity.

15. It shall not be obligatory on an employer who desires to be relieved of his obligations under a contract of apprenticeship to find a suitable employer to undertake the said obligations if the apprentice has so misconducted himself or has proved to be so incapable or inefficient as to make it reasonable for the employer to discharge him :

Provided that any apprentice so discharged may appeal in the prescribed manner to the Court, whose decision shall be final and conclusive.

Take in addition 1930 Inset.

Employer to give to discharged apprentice certificate of service

16. Whenever for any reason an apprentice ceases to be employed by an employer it shall be the duty of the employer to supply the apprentice with a statement in the prescribed form setting forth the service of the apprentice. Take in addition 1930 Inset.

Provision as to apprenticeships not to be made hereafter in awards or industrial agreements.

17. (1.) No provision relating to apprentices shall be made in any award or agreement made after the coming into operation of this Act, and any provision purporting to relate to apprentices in any such award or agreement shall be void and of no effect.

(2.) On the taking effect of an order of the Court made under subsection one of section five hereof any provision relating to apprentices in an award or agreement in force at the time of the coming into operation of this Act shall, so far as it relates to the industry and locality or to the parties concerned, be deemed to be void and of no effect :

Provided that nothing in this subsection shall be deemed to invalidate any contract of apprenticeship made prior to the date of such order.

Reports by school-teachers.

18. (1.) The head teacher of any school shall, on being requested so to do by the Registrar or the District Registrar, forward, as soon as practicable after any child leaves school with the intention of entering into employment, a report to the parent or guardian of the child as to—

- (a.) The standard of education of the child at the time of leaving school :
- (b.) A statement of his attainments and of any subject or subjects in which he has shown aptitude :
- (c.) Any other matters that may be deemed relevant to the future employment and training of the child.

(2.) To enable the head teacher to prepare such a report it shall be his duty to carefully watch the progress of each child in the upper classes of his school, and to take notice of his character, aptitude, and attainments.

(3.) A copy of every such report shall be forwarded at the same time to the District Registrar, who shall, on the application of the child or of the parent or guardian, give such advice and assistance as may be in his power to enable the child or the parent or guardian to decide on the most suitable employment.

(4.) The District Registrar shall keep a register of young persons desiring to enter into apprenticeships and of vacancies for apprentices, and the information contained therein shall be available free of charge

to employers and to the young persons concerned and to their parents or guardians.

19. The Court, or the Registrar, or the District Registrar, may call upon any employer or other person to furnish such information in his possession as may be required for the proper administration of this Act, and any employer or other person failing to comply with such a request shall be deemed to have committed a breach of this Act.

Court or Registrar
may require reports

20. The Registrar shall from time to time advise the Director of Education of the number of persons employed or required in the industries to which this Act applies, together with such information as may be available as to the probable prospects and requirements for the future.

Registrar to furnish
reports to Director
of Education.

21. (1.) If a majority of the employers in any industry and locality to which this Act applies desire to establish an institution in which young persons may be trained in that industry, the Court may, if those employers employ a majority of the workers in the industry and locality, on such conditions as it may think fit having regard to the prospects of employment in that industry, order that all the employers in the industry and locality to whom this Act applies shall contribute to the cost thereof in such proportion as the Court may determine, and the Court may by order specify the method of ascertaining the cost of such institution and the procedure to be adopted for the collection of such cost.

Court may require
establishment of
institution for
training of
apprentices.

(2.) Any sum ordered by the Court to be payable by an employer in respect of such an institution shall, as from a date to be specified, be deemed to be a debt owing by the employer to such person as may be specified in the order.

(3.) The Court may from time to time, on the application of any employer, and on such conditions as it may think fit, exempt such employer from contributing to such an institution.

(4.) Such institution may, if so desired by the applicants and approved by the Minister of Education, be a registered school or portion of a registered school within the meaning of the Education Act, 1914.

22. (1.) The Governor-General may, by Order in Council, make such regulations as may be necessary for the effectual carrying-out of this Act.

Regulations.

(2.) Any breach of such regulations shall be deemed to be a breach of this Act.