

New Zealand.

## ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Provision for temporary appointment of additional nominated Court of Arbitration.</p> <p>3. Provision for temporary appointment of additional nominated members of Court of Arbitration.</p> <p>4. Court may delegate certain of its functions.</p> | <p>5. Modification of provisions for citation of employers as parties to proceedings before Conciliation Council or before Court.</p> <p>6. Section 21 of principal Act (as to amalgamation of industrial unions) amended.</p> <p>7. Section 108 of principal Act affected.</p> <p>8. Section 154 of principal Act amended.</p> <p>9. Modification of provisions for registration of industrial unions of workers for two or more industrial districts.</p> |
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1937, No. 10.

AN ACT to amend the Industrial Conciliation and Arbitration Act, 1925. Title.  
[16th November, 1937.]

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

1. This Act may be cited as the Industrial Conciliation and Arbitration Amendment Act (No. 2), 1937, and shall be read together with and deemed part of the Industrial Conciliation and Arbitration Act, 1925 (hereinafter referred to as the principal Act).

Short Title.  
See Reprint  
of Statutes,  
Vol. III, p. 939

Provision for temporary appointment of additional Judge of Court of Arbitration.

**2.** (1) Notwithstanding anything to the contrary in the principal Act, the Governor-General may from time to time, as he thinks fit, appoint a Judge of the Supreme Court to be an additional Judge of the Court of Arbitration, and in any such case the Judge so appointed shall hold both offices concurrently. Any appointment under this section shall be for such term, not exceeding twelve months, as may be specified in that behalf in the instrument of appointment, but may from time to time be renewed.

(2) Any person appointed as an additional Judge of the Court of Arbitration under this section shall, while he continues to hold office as such, have the same powers and jurisdiction as the Judge appointed under the principal Act.

(3) If and so long as a Judge of the Supreme Court holds office as an additional Judge of the Court of Arbitration he shall be deemed to be absent from his office as a Judge of the Supreme Court, and a Judge may be appointed in his stead pursuant to section eleven of the Judicature Act, 1908, to hold office during the pleasure of the Governor-General:

Provided that nothing herein shall be construed to deprive the additional Judge of the Court of Arbitration of power to exercise jurisdiction as a Judge of the Supreme Court.

See Reprint of Statutes, Vol. II, p. 63

Provision for temporary appointment of additional nominated members of Court of Arbitration.

**3.** (1) On the appointment of an additional Judge of the Court of Arbitration in accordance with the last preceding section, two additional nominated members and two additional acting nominated members of the Court shall be appointed by the Governor-General on the nomination of the Minister. Every appointment under this section shall be for such term, not exceeding twelve months, as may be specified in that behalf in the instrument of appointment, but may from time to time be renewed.

(2) Nominated members appointed pursuant to this section shall be entitled to receive such salary or other remuneration and such allowances as may from time to time be prescribed by regulations under the principal Act.

(3) Save as hereinbefore in this section provided, the provisions of the principal Act relating to the nominated

members and the acting nominated members of the Court shall apply to the members appointed pursuant to this section.

(4) At any time while an additional Judge of the Court of Arbitration is in office in accordance with the foregoing provisions of this Act, the nominated or acting nominated members appointed under the principal Act may sit only with the Judge appointed under that Act, and the nominated members or acting nominated members appointed under this Act may sit only with the additional Judge appointed under this Act.

(5) The additional Judge and the additional nominated members appointed in accordance with this Act shall, while they continue in office, constitute the Court as if they had been appointed under the principal Act, and any of the powers or functions of the Court, whether under the principal Act or any other Act, may be exercised and performed either by the Court as constituted under the principal Act or by the Court as constituted in accordance with this Act.

4. (1) Subject to the provisions of this section, the Court may from time to time, by order under the seal of the Court, delegate to any Stipendiary Magistrate named in the order any of its powers or functions under the principal Act, or under the Apprentices Act, 1923.

Court may  
delegate  
certain of  
its functions.

See Reprint  
of Statutes,  
Vol. V, p. 576

(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) The fact that the Court may have delegated any of its powers or functions in accordance with this section shall not deprive the Court of power to itself exercise any such powers or functions.

(4) A Stipendiary Magistrate exercising any powers or functions delegated to him in accordance with this section shall sign every order or other instrument executed by him pursuant to the delegation with his own name, adding thereto the words "Acting as a duly appointed delegate of the Court of Arbitration" or words to the like effect.

(5) 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 by regulations in that

behalf made under the principal Act, appeal therefrom to the Court, and in any such case the Court may deal with the matter in all respects as if an order of delegation in respect thereof had not been made:

Provided that in any case where the Court delegates its powers to make an award, any appeal shall not relieve any person or any union or association from its obligation to conform to the award.

Modification  
of provisions  
for citation of  
employers as  
parties to  
proceedings  
before  
Conciliation  
Council or  
before Court.

**5.** (1) Where in any application under section forty-one of the principal Act any industrial union or industrial association of employers is named as a respondent, in accordance with the requirements of paragraph (b) of subsection five of that section, all employers (not being members of that industrial union or of any industrial union comprised in the industrial association) who are engaged in the industrial district in any industry to which the dispute relates shall also be deemed to be respondents (as if they had been named in the application); and, where an industrial union or industrial association of employers is not so named, it shall be sufficient compliance with the requirements of the said paragraph if a number of representative employers (to the satisfaction of the Commissioner) is named in the application, and in such case the employers so named and all other employers who are engaged in the industrial district in any industry to which the dispute relates shall be deemed to be respondents (as if they had all been named in the application):

Provided that the foregoing provisions of this section shall not apply to an application made in respect of any dispute affecting any branch of the farming industry unless—

- (a) Every industrial association comprising any industrial union of employers whose members or any of whose members are engaged in the industrial district in that branch of the said industry is named in the application as a respondent; and
- (b) Every union of employers (not being a member of an industrial association) whose members or any of whose members are engaged in the industrial district in that branch of the said industry is named in the application as a respondent.

(2) If in any case all the unions, associations, and employers named in the application made under section forty-one of the principal Act have been cited to attend the proceedings for the hearing of a dispute by the Court, the Court shall not exercise the power conferred on it by section eighty-one of the principal Act to direct that any further parties be cited unless it is of opinion that the failure to cite any person or persons may be the cause of injustice to him or them.

(3) For the purposes of paragraph (a) of subsection one of section eighty-nine of the principal Act and of subsection three of that section the expression "original party" includes only such trade-unions, industrial unions, industrial associations, and employers as have by name been made party to the proceedings or to the award.

(4) Section eighty-nine of the principal Act is hereby amended as follows:—

(a) By omitting from subsection three the words "at any time whilst the award is in force", and substituting the words "when the award comes into force or at any time whilst the award is in force"; and

(b) By adding to the said subsection the following proviso:—

"Provided that any trade-union, industrial union, industrial association, or employer bound as subsequent party to any award by the operation of this subsection may, at any time within one month after becoming so bound, apply to the Court for total or partial exemption from such award, and the Court may grant such exemption accordingly or may refuse to grant exemption."

(c) By inserting, after subsection three, as amended by the last preceding subsection, the following new subsection:—

"(3A) The fact that application for exemption from the terms of any such award has been made and has not been disposed of shall not relieve any person or any union or association from his or its obligation to conform to the award."

Section 21  
of principal  
Act (as to  
amalgamation  
of industrial  
unions)  
amended.

Section 108  
of principal  
Act affected.

Section 154  
of principal  
Act amended.

See Reprint  
of Statutes,  
Vol. IV, p. 326  
Ibid., Vol. III,  
p. 516

Modification  
of provisions  
for registration  
of industrial  
unions of  
workers for  
two or more  
industrial  
districts.  
1936, No. 6

**6.** Section twenty-one of the principal Act is hereby amended by omitting from subsection one the words “ in the same industrial district ”; and also by omitting from subsection two thereof the words “ within the same industrial district or any part thereof ”.

**7.** (1) Where a dispute is referred to a Council of Conciliation by an industrial union registered in respect of two or more industrial districts, it shall be sufficient compliance with the requirements of section one hundred and eight of the principal Act if the proposal to refer the dispute to the Council has been approved in manner prescribed by that section at special meetings of the members of the several branches of that union.

(2) Subsection two of the said section one hundred and eight is hereby consequentially amended by omitting the words “ of the industrial union ”.

**8.** (1) Section one hundred and fifty-four of the principal Act is hereby amended by inserting, after the words “ or body corporate ” in the proviso thereto, the words “ or any chartered club, or any racing club, trotting club, or hunt club ”.

(2) For the purposes of the said section one hundred and fifty-four, as amended by the last preceding subsection, the expression “ chartered club ” means a chartered club within the meaning of Part IX of the Licensing Act, 1908, and the expression “ racing club, trotting club, or hunt club ” means any such club within the meaning of the Gaming Act, 1908.

**9.** (1) Section five of the Industrial Conciliation and Arbitration Amendment Act, 1936, is hereby amended by repealing paragraph (b) of subsection one, and substituting the following paragraph:—

“(b) Where application is made for the registration under this section of an industrial union of workers, that the applicant society has a branch of not less than five members in each of at least four industrial districts, and, in cases where the membership of any branch is less than fifteen, that the membership of that branch comprises not less than one-fourth of the total number of workers engaged in the industry or in the related industries, as the case may be, in the industrial district for which the branch is established.”

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(2) Section ten of the Industrial Conciliation and Arbitration Amendment Act, 1936, is hereby amended by omitting from the proviso to subsection one the words "fifteen members in each of at least two industrial districts", and substituting the words "five members in each of at least two industrial districts, and, in cases where the membership of any such branch is less than fifteen, unless the membership of that branch comprises not less than one-fourth of the total number of workers engaged in the industry or in the related industries, as the case may be, in the industrial district for which the branch is established".

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