

New Zealand.



ANALYSIS.

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1930, No. 25.

AN ACT to amend the Apprentices Act, 1923.

[25th October, 1930.]

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 Amendment Act, 1930, and shall be read together with and deemed part of the Apprentices Act, 1923 (hereinafter referred to as the principal Act).

(2) This Act shall come into operation on the first day of January, nineteen hundred and thirty-one.

2. (1) In the case of every Apprenticeship Committee appointed after the commencement of this Act a majority of the members who are appointed as representatives of employers and of workers respectively shall consist of persons who are, or have at some time been, actually engaged either as employers or as workers in the industry or in any one of the group of industries in respect of which the Committee is appointed.

(2) Where in the case of any Apprenticeship Committee appointed before the commencement of this Act it becomes necessary at any time hereafter to appoint a member or members thereof to represent employers or workers, no person other than a person of the class mentioned in the last preceding subsection shall be eligible for such appointment unless after the making thereof a majority of the representatives of employers or of workers, as the case may be, on such Committee would be persons of that class.

(3) The validity of the constitution of an Apprenticeship Committee, or the appointment of any member of an Apprenticeship Committee, shall not be questioned on the ground that the foregoing provisions of this section have not been complied with :

Provided that if at any time it appears to the Court that any member of an Apprenticeship Committee was not, at the time of his appointment, qualified to be so appointed, the Court shall forthwith remove him from office and appoint a qualified person in his stead.

3. Section four of the principal Act is hereby amended by inserting, after subsection three, the following new subsection :—

“(3A) If any member of a Committee is absent from three consecutive meetings of the Committee without the leave of the Committee, the Committee, or the Chairman, may call upon him to show cause why his seat should not be declared vacant ; and if such member does not at the next meeting satisfy the Committee that he had reasonable cause for being so absent, the Committee may by resolution declare his seat to be vacant, and request the organization which appointed him, or the Court, as the case may require, to appoint some other qualified person in his stead. Where any such organization fails to make such appointment within a period of thirty-one days after being requested so to do the District Registrar may appoint a qualified person to fill such vacancy.”

4. (1) Where in any case an Apprenticeship Committee is unable to come to a decision on any matter, such matter may be referred by it to the Court for decision. In every such case any person or persons who would have been affected had the Committee come to a decision shall be entitled, before the Court decides the matter, either to appear before and be heard by it or to submit to it a statement in writing.

(2) Where in any such case the Committee does not within a reasonable time refer the matter to the Court, any person or persons affected may apply to the Court for such matter to be decided by it, and the Court, if it thinks fit, may order such matter to be referred to it for decision, and in such case the Court shall, before deciding the matter, give to the Committee and the applicant and all other persons affected an opportunity either to appear before and be heard by the Court or to submit to it a statement in writing.

5. (1) Where no Apprenticeship Committee has been appointed in respect of any industry or group of industries in any locality, or where the Court has discharged any Apprenticeship Committee, the Court, instead of appointing such a Committee, may, by order, confer on a District Registrar, with respect to any such industry or group of industries, such of the powers that may be conferred by it on an Apprenticeship Committee as it thinks fit, and the District Registrar

Section 4 of principal Act amended.

Where Apprenticeship Committee unable to come to decision matter to be referred to Court.

Court may authorize District Registrar to exercise powers of committees in certain cases.

in respect of the exercise of the powers so conferred shall for all purposes be deemed to be an Apprenticeship Committee :

Provided that nothing in this subsection or in any order of the Court thereunder shall confer power on a District Registrar to make any recommendation with respect to the making or amendment by the Court of an order under section five of the principal Act.

(2) The Court may at any time cancel or amend any such order.

6. (1) The locality in respect of which any Apprenticeship Committee hereafter appointed under the principal Act may exercise its powers shall be comprised within a radius of twenty miles from some point specified in the agreement of employers or workers, or the order of the Court, as the case may be, appointing such Committee :

Limiting area within which Apprenticeship Committee may exercise its functions.

Provided that nothing in this subsection shall authorize any Apprenticeship Committee to exercise its functions in any area within such radius which at the time of the appointment of such Committee is part of the locality within which any other Apprenticeship Committee has authority to exercise its powers.

(2) An Apprenticeship Committee appointed before the commencement of this Act shall not thereafter exercise its powers beyond a radius of twenty miles from the principal post-office in the locality in respect of which it was appointed.

(3) Notwithstanding anything contained in the foregoing provisions of this section, the Court may at any time extend the locality in which any Apprenticeship Committee is authorized to exercise its powers so as to include any specified area outside such locality if the Court is satisfied that it is the general wish of the employers and workers engaged in the same industry or group of industries in such area that such extension be made.

7. Subsection four of section five of the principal Act is hereby amended by omitting from the proviso to paragraph (*k*) all words after the words "such powers", and substituting the words "to one or more members of the Committee".

Section 5 of principal Act amended.

8. Subsection two of section seven of the principal Act is hereby amended by omitting the words "shall be appointed for a specified district, and".

Section 7 of principal Act amended.

9. The Registrar or any Apprenticeship Committee may at any time, in any matter arising out of his or its duties, state a case for the advice and opinion of the Court.

Registrar or Apprenticeship Committee may state case for Court.

10. Every employer shall within three days after engaging any person as an apprentice give notice of such engagement to the District Registrar for the locality concerned.

Notice of engagement of apprentice to be given to District Registrar.

11. (1) Subsection one of section eight of the principal Act as amended by paragraph (*a*) of section five of the Apprentices Amendment Act, 1925, is hereby further amended by omitting all words after the words "locality concerned within", and substituting the words "fourteen days after the commencement of the employment of the apprentice, or the expiration of any period of probation served by him pursuant to this Act (in the case of an original contract), or within fourteen days after the making of the alteration (in the case of an altered contract), and if the contract or alteration is not presented for registration within such time the parties thereto shall be severally liable to a fine of ten pounds".

Section 8 of principal Act amended.

(2) Subsection eight of the said section eight is hereby amended by adding the words "within fourteen days of such termination, discharge, or transfer".

Contract of apprenticeship to which body corporate is a party need not be under seal.

12. Where a body corporate is a party to any contract of apprenticeship, such contract need not be under seal, but may be signed on behalf of the corporation by such person or persons as by law are authorized to sign contracts in writing of the corporation, not being contracts under seal.

Section 9 of principal Act amended.

13. Subsection three of section nine of the principal Act is hereby amended by adding the following proviso:—

"Provided that proceedings in respect of failure to duly register a contract of apprenticeship may be taken at any time during the employment of the apprentice pursuant to such contract, or within six months after the termination of such employment."

On bankruptcy of employer, Court may order payment out of assets to be made to apprentices in certain cases.

14. (1) Where the employer of any apprentice is adjudicated a bankrupt, or, being a company, is wound up, and such apprentice is thereby deprived of the employment to which he is entitled by his contract of apprenticeship, the Court of Arbitration, on application by the apprentice, may, in its discretion, order payment to the apprentice of an amount not exceeding three months' wages in respect of any period intervening between the time when such apprentice is so deprived of employment and the time when he receives other employment as an apprentice in the same industry. Such amount shall constitute a debt payable to the apprentice by the employer, and such debt shall rank equally for payment with the debts mentioned in paragraph (d) of section one hundred and twenty of the Bankruptcy Act, 1908, or in subsection one of section two hundred and forty-nine of the Companies Act, 1908, as the case may require, notwithstanding anything to the contrary in either of those Acts.

(2) Nothing in the last preceding subsection shall so operate as to prevent the Supreme Court ordering payment to or for the use of any apprentice of any sum pursuant to subsection two of section eighty-three of the Bankruptcy Act, 1908, in addition to the amount payable under this section.

Suspension and discharge of apprentices for misconduct or grave incapacity.

15. (1) In any case where an apprentice so misconducts himself or proves himself to be so incapable that if he were an employee other than an apprentice it would be reasonable for his employer to discharge him, the employer may suspend him and apply to the appropriate Apprenticeship Committee, or, where there is no such Committee, to the District Registrar, for leave to discharge him.

(2) Every such application to an Apprenticeship Committee or to the District Registrar shall be made within three days after the apprentice is so suspended, and when such application is duly made the employer may withhold any wages accruing due to the apprentice in respect of the period of suspension.

(3) The Apprenticeship Committee or the District Registrar, as the case may be, shall consider such application after giving both the employer and the apprentice an opportunity to be heard, and may grant or refuse leave to discharge the apprentice.

(4) Where such leave is granted the employer shall be entitled to discharge the apprentice as from the date on which he was suspended, and in such case the contract of apprenticeship shall be deemed to be cancelled.

(5) Where such leave as aforesaid is refused the Committee or the District Registrar, as the case may be, may make such order as it thinks fit with respect to payment of wages to the apprentice in respect of the period of his suspension. If no such order is made, the employer shall pay to the apprentice all wages that would have been payable to him in respect of such period had he not been suspended.

(6) The employer or the apprentice may, within seven days after the Committee or the District Registrar has granted or refused leave to discharge the apprentice, appeal in the prescribed form to a Magistrate exercising jurisdiction in the Magistrate's Court nearest to the place where the apprentice is employed. A copy of such appeal shall within the same period be served on the apprentice or the employer, as the case may require.

(7) The appeal shall be heard at such time and place as the Magistrate appoints, and the Magistrate's decision shall be final and conclusive.

(8) If the employer, notwithstanding that leave to discharge the apprentice has been refused by the Apprenticeship Committee or the District Registrar, or, in case of appeal, by the Magistrate, discharges the apprentice, such discharge shall for all purposes be conclusive proof of a breach by the employer of the contract of apprenticeship.

(9) If the Magistrate in determining any appeal as aforesaid decides in favour of the apprentice he may fix an amount that shall be payable to the apprentice as damages for breach of the contract of apprenticeship in the event of the employer discharging him contrary to the determination of the Magistrate, or the Magistrate may, in lieu of fixing such amount, grant leave to the apprentice to make to him *ex parte* an application for the fixing thereof in the event of the employer discharging the apprentice contrary to the determination of the Magistrate. Such amount shall be in addition to the amount of wages payable in respect of the period of suspension.

(10) The amount (if any) so fixed by the Magistrate shall, in the event of the apprentice being unlawfully discharged, constitute a debt due to the apprentice by the employer, and may be recovered in any Court of competent jurisdiction.

(11) The Magistrate may hear and determine any appeal under this section, either in open Court or in Chambers, as he may think fit. and may make such order as to costs as he may think fit.

(12) Where an employer, without proceeding in accordance with the foregoing provisions of this section, discharges or purports to discharge an apprentice, or having suspended him does not within three days thereafter make application as aforesaid for leave to discharge him, the apprentice, within seven days after such discharge or within ten days after such suspension, as the case may be, may apply to the Apprenticeship Committee or the District Registrar, as the case may require, for relief from such discharge or suspension, and thereupon the provisions of this section shall apply in like manner as if the employer had proceeded in accordance with subsection one hereof.

(13) This section is in substitution for section fifteen of the principal Act, and that section is hereby accordingly repealed: Repeal.

Provided that any proceedings instituted under that section before the commencement of this Act shall be continued and completed as if this Act had not been passed.

Section 16 of principal Act amended.

16. Section sixteen of the principal Act is hereby amended as follows:—

(a) By inserting, after the words “any reason”, the words “(including the completion of his contract of apprenticeship)”:

(b) By adding the following as subsection two thereof—

“(2) The employer shall forward a copy of such statement to the District Registrar, who shall endorse a note thereof on the registered contract of apprenticeship and on every copy thereof submitted to him for that purpose by any of the parties to the contract.”

Employer of apprentices to keep wages and time book.

17. (1) Every employer of an apprentice or apprentices shall at all times keep in the prescribed form a record (called the “wages and time book”) showing in the case of each apprentice—

(a) His name;

(b) His age;

(c) The date of commencement of his employment as an apprentice;

(d) The kind of work on which he is usually employed;

(e) The hours of his employment during each week;

(f) The wages paid each week; and

(g) Such other particulars as are prescribed.

(2) The wages and time book in use for the time being and any such book used within the preceding two years shall at all times be open to inspection by the District Registrar or any Inspector of Factories.

Copy of apprenticeship order to be exhibited in place where apprentice employed.

18. In every case where an apprentice to whom an apprenticeship order under the principal Act applies is employed in any premises, the employer shall affix and keep affixed in some conspicuous place in such premises, where it may be easily read by such apprentice, a copy of such order. A District Registrar or any Inspector of Factories may require the employer to move such copy of the order to some other place in the premises, or to affix an additional copy of the order in a place in the premises indicated by the District Registrar or Inspector.

Principal Act not to apply to apprentices under Pharmacy Act, 1908.

19. Nothing in the principal Act shall apply to any apprentice serving under articles of apprenticeship of any of the classes referred to in section thirty of the Pharmacy Act, 1908, or to the employer of such apprentice.