

New Zealand



ANALYSIS

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1946, No. 4

Title.

AN ACT to amend the Apprentices Act, 1923.

[9th August, 1946]

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

Short Title.

1. (1) This Act may be cited as the Apprentices Amendment Act, 1946, and shall be read together with and deemed part of the Apprentices Act, 1923 (hereinafter referred to as the principal Act).

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

(2) This Act shall come into force on the first day of January, nineteen hundred and forty-seven. Commencement.

2. For the purposes of this Act and the principal Act, unless the context otherwise requires,— Interpretation.

“Apprenticeship order” means an order made pursuant to subsection one of section five of the principal Act, and includes any amendment thereof and any matters included therein pursuant to the principal Act or any other enactment:

“Commissioner” means the Commissioner of Apprenticeship:

“District Commissioner” means a District Commissioner of Apprenticeship:

“Local Committee” means an Apprenticeship Committee appointed in respect of a particular locality:

“New Zealand Committee” means a New Zealand Apprenticeship Committee.

3. (1) There shall from time to time be appointed an officer of the Public Service to be called the Commissioner of Apprenticeship. Commissioner and District Commissioners of Apprenticeship.

(2) There shall also from time to time be appointed such number of officers of the Public Service as may be found necessary for the purposes of the administration of this Act, to be called District Commissioners of Apprenticeship.

(3) In addition to the functions, duties, powers, and authorities expressly conferred on them by this Act or otherwise howsoever, the Commissioner shall have all the functions, duties, powers, and authorities conferred by the principal Act on the Registrar of Apprentices, and District Commissioners shall have all the functions, duties, powers, and authorities conferred by the principal Act on District Registrars of Apprentices.

(4) Every District Commissioner shall be subject to the direction and control of the Commissioner.

(5) All references to the Registrar of Apprentices or to a District Registrar of Apprentices in the principal Act, or in any other Act, or in any regulation or other enactment, or in any award, order, contract, agreement, or other document whatsoever, shall, unless inconsistent with the context or with the provisions

of this Act, be hereafter read as references to the Commissioner of Apprenticeship or to a District Commissioner of Apprenticeship.

Repeals.

1936, No. 4

(6) Section seven of the principal Act, section eight of the Apprentices Amendment Act, 1930, and so much of the Second Schedule to the Labour Department Amendment Act, 1936, as relates to the said section seven are hereby repealed.

New Zealand Apprenticeship Committees.

4. (1) Where there exists in any industry or group of industries an organization of employers and an organization of workers or organizations of employers and organizations of employees (whether registered under any Act or not) and those organizations agree in writing to the appointment of an Apprenticeship Committee in respect of the industry or group of industries for the whole of New Zealand, they may register the agreement in the prescribed manner, and the Committee shall thereupon become a New Zealand Apprenticeship Committee.

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

(3) Apprenticeship Committees appointed pursuant to section four of the principal Act shall hereafter be known as local Apprenticeship Committees.

(4) All provisions in the principal Act which refer to Apprenticeship Committees or the members thereof shall, unless inconsistent with the context or with the provisions of this Act, be hereafter read as referring to New Zealand Apprenticeship Committees or the members thereof as well as to local Apprenticeship Committees or the members thereof.

5. Each New Zealand Apprenticeship Committee shall have the following functions:—

(a) To estimate the requirements of the industry or group of industries in respect of which it has been appointed as to the number of apprentices required from time to time to ensure that the requisite number of skilled tradesmen are being trained:

Functions of New Zealand Committees.

- (b) To recommend to the appropriate authorities and organizations the taking of such steps as seem desirable to ensure that the aforesaid requirements are satisfied:
- (c) To apply to the Court for an order governing apprenticeships in any industry, or any branch of any industry, in respect of which it has been appointed:
- (d) To give consideration to what prerequisite education, if any, should be laid down for apprentices wishing to enter the industry:
- (e) To co-operate with the Department of Education for the purpose of ensuring that the apprentices obtain the maximum amount of educational training:
- (f) To give consideration to the question of the introduction of educational training during normal working-hours and whether it is desirable and practicable:
- (g) To give consideration to the question of the introduction of a practical test for each apprentice before the completion of his apprenticeship:
- (h) To make recommendations to the Court respecting the making of any order relating to the aforesaid matters or any other matters referred to in section five of the principal Act:
- (i) To exercise such powers in relation to apprenticeships as are delegated to it by the Court:
- (j) Such other functions as are conferred on it by this Act or otherwise howsoever.

6. (1) The Commissioner of Apprenticeship shall be the Chairman of each New Zealand Apprenticeship Committee, and the appropriate District Commissioner of Apprenticeship shall be the Chairman of each local Apprenticeship Committee:

**Membership of
Apprenticeship
Committees.**

Provided that the Commissioner and any District Commissioner may, either in respect of any particular meeting or in respect of any particular Committee, appoint any officer of the Labour Department to act as the Chairman of the Committee in his place:

Provided also that the Chairman of any meeting shall have a deliberative vote, but shall not have a casting vote.

(2) Every Committee, whether a New Zealand Committee or a local Committee, shall consist of the Chairman and seven other members, of whom three shall be representatives of employers, three shall be representatives of the workers, and one shall be a person conversant with technical education.

(3) The powers of a Committee shall not be affected by any vacancy in the membership thereof.

(4) It shall not be necessary in the agreement or order of the Court appointing a Committee to name the members of the Committee if provision is made in the agreement or order for the members to be nominated in a manner prescribed by regulations or approved by the Court:

Provided that if default is made at any time for a space of thirty-one days in the making of appropriate nominations the Commissioner, in the case of a New Zealand Committee, or a District Commissioner, in the case of a local Committee, may appoint a qualified person to be a member of the Committee.

(5) 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 that 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 person or body of persons who appointed or nominated him, or the Court, as the case may require, to appoint or nominate some other qualified person in his stead. Where any person or body of persons as aforesaid fails to make an appointment or nomination within a period of thirty-one days after being requested so to do the Commissioner, in the case of a New Zealand Committee, or a District Commissioner, in the case of a local Committee, may appoint or nominate a qualified person to fill the vacancy.

(6) The Court may at any time, of its own motion or on the application of the Commissioner or of any person interested, remove or replace any member of a Committee, or may discharge a Committee, and the Court shall, as soon as it may conveniently do so after the commencement of this Act, adjust the membership of any Committee then in existence so that it conforms to the provisions of subsection two hereof.

(7) Subsections three, three A, and four of section four of the principal Act and section three of the Apprentices Amendment Act, 1930, are hereby repealed. Repeals.

7. (1) There shall be paid out of moneys appropriated by Parliament for the purpose to the members of New Zealand Committees who are not officers employed in the service of the Crown such remuneration by way of fees and allowances and such travelling expenses and allowances as may from time to time be prescribed by regulations under the principal Act. Allowances and travelling expenses.

(2) There shall be paid out of moneys appropriated by Parliament for the purpose to the members of local Apprenticeship Committees who are not officers employed in the service of the Crown all amounts actually and reasonably expended by them, and compensation for loss of earnings, in attending meetings of the Committee of which they are members or in travelling on the business of the Committee with the authority of the Committee.

(3) Subsection five of section four of the principal Act is hereby repealed. Repeal.

8. (1) Where a New Zealand Apprenticeship Committee has been appointed the Court may delegate to that Committee any or all of the powers conferred on it by paragraphs (a), (f), (g), (h), (k), and (l) of subsection four of section five of the principal Act and by section twelve of this Act in so far as those powers relate to the industry in respect of which the Committee has been appointed. Delegation of powers by Court to Committees.

(2) Where a local Apprenticeship Committee has been appointed the Court may delegate to that Committee any or all of the powers conferred on it by paragraphs (b) to (e), and (i) to (k) of subsection

four of section five of the principal Act in so far as those powers relate to the industry and locality in respect of which the Committee has been appointed.

(3) The Court may at any time revoke or vary any delegation made by it under this section, and no such delegation shall prevent the exercise of any power by the Court.

(4) Any person affected by a decision of a Committee in respect of any matter delegated to it as aforesaid may in the prescribed manner appeal to the Court, whose decision shall be final and conclusive.

Repeal.

(5) This section is in substitution for section six of the principal Act, and that section is hereby accordingly repealed:

Provided that every delegation of powers made by the Court under the said section six or under section five of the Apprentices Amendment Act, 1930, and in force on the commencement of this Act shall continue to have full force and effect until cancelled by the Court.

New Zealand apprenticeship orders.

9. After the commencement of this Act the Court shall not make any apprenticeship order in respect only of a specified locality, but shall make apprenticeship orders in respect of each industry or branch thereof for the whole of New Zealand:

Provided that nothing in this section shall be deemed to prohibit the Court from making in any apprenticeship order special provisions which do not relate to the whole of New Zealand, or from amending any apprenticeship order in force on the commencement of this Act.

Apprenticeship orders may be related to awards.

10. (1) Notwithstanding anything in section seventeen of the principal Act the Court may in any apprenticeship order provide that—

(a) Any conditions contained in an award or agreement relating to any industry shall apply in whole or in part and either with or without variation in respect of the employment of apprentices in the industry:

(b) The wages of apprentices shall be determined by reference to wages for the time being payable pursuant to any award or agreement relating to the industry.

(2) In any case where provision is made as aforesaid it may relate to one or more awards or agreements in force at the time of the coming into force of the apprenticeship order, whether or not the awards or agreements are in force in every locality in which apprentices may be employed, and may provide that in the event of any award or agreement to which it relates being amended, or in the event of a new award or agreement being substituted therefor, the apprenticeship order shall be interpreted from time to time by reference to the amended or substituted award or agreement in force for the time being.

11. Where pursuant to section five of the principal Act any apprentices have been required to attend at a technical school or other place during ordinary hours of employment to undergo training, the Court may, in an apprenticeship order or otherwise, order the employer to pay wages to any apprentice in respect of any time while he is undergoing training as aforesaid.

Payment of wages in respect of daylight training.

12. (1) The Court, by apprenticeship order or otherwise, may provide that the period of apprenticeship shall be shorter in the case of any apprentice who has at the commencement of his apprenticeship, or who obtains during his apprenticeship, any special qualification, either educational or otherwise, specified by the Court, and may make such consequential provisions as it thinks fit for the adjustment of wages or otherwise howsoever.

Apprenticeship term may be shortened where special qualification obtained.

(2) Where by any enactment it is provided that, before a person desirous of being engaged or employed in any industry may sit for any examination or obtain any certificate or be registered, that person must have served as an apprentice for a specified period, it shall, notwithstanding anything to the contrary in that enactment, be a sufficient compliance with that requirement by any person if he has obtained the special qualification referred to in the last preceding subsection and has served as an apprentice for such period as may be prescribed by the Court, being shorter than the period specified in the aforesaid enactment by not more than one year.

Form of
apprenticeship
contracts.

13. (1) The Court may in any apprenticeship order prescribe, in respect of contracts of apprenticeship to which the order relates, matters which are to be included in the contracts in addition to the matters referred to in subsection one of section five of the principal Act, and may prescribe the form of the contracts.

(2) Without prejudice to the generality of the last preceding subsection, the Court may require that the following particulars be included in the contracts:—

- (a) A list of the operations and skills to be taught to the apprentice:
- (b) The title of the person who is to undertake or supervise the actual training of the apprentice, and a definition of the scope of his responsibility.

Apprenticeship
contracts to be
subject to
apprenticeship
orders.

14. (1) Where the Court makes any apprenticeship order in any industry, whether in substitution for or amendment of a previous order or not, then, subject to the provisions of this section, all contracts of apprenticeship to which the principal Act applies in respect of that industry and which are in force at the time of the coming into force of the order shall be read subject to the terms of the order and be deemed to be modified thereby accordingly.

(2) Where the Court has, before the commencement of this Act, made any such apprenticeship order as aforesaid in any industry, then, subject to the provisions of this section, all contracts of apprenticeship to which the principal Act applies in respect of that industry and which were in force at the time of coming into force of the order shall, as from the commencement of this Act, be read subject to the terms of the order and be deemed to be modified thereby accordingly.

(3) In any case where the principal Act is applied to a contract of apprenticeship in any industry by an apprenticeship order or while an apprenticeship order is in force in respect of that industry then, subject to the provisions of this section, the contract of apprenticeship to which the principal Act is applied shall as from the date on which the principal Act is so applied be read subject to the terms of the apprenticeship order and be deemed to be modified thereby accordingly:

Provided that any party to any such contract of apprenticeship as aforesaid may at any time apply to the Court for a modification of the apprenticeship order in so far as it affects the contract of apprenticeship, and the Court may make such modification of the order in relation to that contract as it thinks fit, or may exclude that contract from the operation of the order.

(4) In any case where an apprenticeship order has been amended by any order or amendment made pursuant to the Rates of Wages Emergency Regulations 1940 or the Economic Stabilization Emergency Regulations 1942, the apprenticeship order shall, while the aforesaid order or amendment remains in force, be read for the purposes of the foregoing provisions of this section subject to that order or amendment.

Serial
numbers
1940/86,
1942/335

(5) This section is in substitution for section four of the Apprentices Amendment Act, 1925, and that section is hereby accordingly repealed.

Repeal.

15. (1) The Commissioner, or any District Commissioner, or any Committee, or any organization of employers or of workers, or any employer or apprentice who is affected thereby, may apply in the prescribed manner to the Court for the opinion of the Court upon any question connected with the construction of any order under the principal Act or with any determination or direction of the Court under that Act.

Interpretation
of
apprenticeship
orders, &c.

(2) The Court may decline to give its opinion where, in the opinion of the Court, it is inadvisable so to do.

(3) The Court may refuse to consider itself bound by any opinion so given, whether in respect of the same matter or any other matter, if the Court is satisfied that it has not been fully informed, or that the matter affects parties other than those immediately interested, or where the asking for and obtaining of the opinion has a tendency to defeat or avoid penalties which ought not to be avoided, or to protect parties from the consequences of wilful breaches.

16. (1) Except as provided in the next succeeding subsection, no employer shall employ any apprentice who is under the age of eighteen years—

Restriction of
hours of young
apprentices.

(a) For more than forty hours (excluding meal-times) in any one week; or

- (b) For more than eight hours (excluding meal-times) in any one day; or
- (c) On shift-work at any time before the hour of seven o'clock in the morning of any day or after the hour of six o'clock in the evening of any day.

(2) If provision is made in the apprenticeship order for the employment of apprentices under the age of eighteen years on overtime, it shall be lawful for the employer in accordance with that provision to employ an apprentice who is under the age of eighteen years beyond the working-hours and times prescribed in the last preceding subsection, but not beyond the limits prescribed in the apprenticeship order.

(3) Notwithstanding the foregoing provisions of this section, if an apprentice is employed in a factory within the meaning of the Factories Act, 1921-22, or if his employment is subject to the provisions of any other Act, the provisions of the Factories Act, 1921-22, or of that other Act relating to working-hours and times and overtime shall be duly complied with.

See Reprint
of Statutes,
Vol. III, p. 198

Application of
Act to
apprenticeship
of females.

17. Notwithstanding anything to the contrary in subsection two of section three of the principal Act, the principal Act shall apply to the apprenticeship of females in any industry in respect of which the Court has by apprenticeship order prescribed the conditions of employment of female apprentices in that industry.

Consent
required before
apprenticeship
contract entered
into.

18. (1) No employer shall enter into any contract of apprenticeship to which the principal Act applies without the prior consent in writing of the appropriate local Apprenticeship Committee or, where there is no such Committee, of the District Commissioner.

(2) Any person affected by the refusal of the Committee or of the District Commissioner to consent to a proposed contract of apprenticeship may appeal in the prescribed manner to the Court, whose decision shall be final and conclusive.

(3) No contract of apprenticeship to which the principal Act applies and which is entered into after the commencement of this Act shall have any validity unless it has been consented to as required by the foregoing provisions of this section:

Provided that if a contract of apprenticeship has been entered into in contravention of those provisions the Court may, on the application of any person interested and having regard to the interests of the apprentice, by order consent to the contract of apprenticeship and declare that it shall have full validity as from the date of the order or as from such earlier or later date as may be specified in the order, but nothing in the order shall be deemed to relieve the employer from liability for breach of the provisions of subsection one of this section.

(4) Subsection four of section eight of the principal Act and section ten of the Apprentices Amendment Act, 1930, are hereby repealed. Repeals.

19. (1) If any person who has attained the age of eighteen years desires to enter into a special contract of apprenticeship as an apprentice, the proposed contract of apprenticeship shall be considered by the appropriate local Committee or, where there is no such Committee, by the District Commissioner, and, before the Committee or District Commissioner consents to the contract as provided in the last preceding section, the Committee or District Commissioner shall obtain the approval of the Court thereto. Adult apprentices.

(2) Application for the approval of the Court shall be made by the Commissioner, who shall submit to the Court the proposed contract, together with the recommendations of the Committee or District Commissioner thereon. If the Court thinks fit, it may, before making its decision, hear any person interested in the matter.

(3) Notwithstanding anything to the contrary in this Act or in the principal Act, a contract of apprenticeship in any industry approved by the Court pursuant to this section may contain such provisions as the Court thinks reasonable and equitable in the particular circumstances, notwithstanding that they are not in accordance with any apprenticeship order or any other order made under section five of the principal Act in respect of the industry.

(4) This section is in substitution for section seven of the Statutes Amendment Act, 1936, and that section is hereby accordingly repealed. Repeal.
1936, No. 58

Transfer of
apprentice to
supplement
training.

20. (1) In any case where the appropriate local Committee, or, if there is no such Committee, the District Commissioner, considers that an employer is not able to give adequate training in the industry to an apprentice, the Committee or the District Commissioner, as the case may be, on the application of the apprentice and (where the apprentice is under the age of twenty-one years) of his parent or guardian (if any) may transfer the apprentice to another employer in the same industry and locality willing and able to undertake the obligations of the original employer.

(2) In any case where an apprentice is transferred to another employer pursuant to the last preceding subsection it shall be lawful for the employer to employ the apprentice so transferred, notwithstanding that the number or proportion of apprentices to journeymen employed by the employer exceeds the number or proportion fixed pursuant to section five of the principal Act.

(3) Where the appropriate local Committee, or, if there is no such Committee, the District Commissioner, is of opinion that an employer is not able to give an apprentice adequate training in the industry and that it is impossible to find another employer in the same industry and locality willing and able to undertake the obligations of the original employer, the Court, with the consent of the appropriate Minister, may, on the application of the Commissioner made with the approval of the appropriate local Committee (if any), make an order transferring the apprentice to a master within the meaning of Part II of the Master and Apprentice Act, 1908. Any transfer as aforesaid may be made on such terms and conditions as to rates of wages, hours, and otherwise howsoever as the Court thinks fit, whether or not the terms and conditions are in accordance with any apprenticeship order. Any apprentice so transferred shall, subject as aforesaid, continue to be subject to the principal Act and, for the purposes of that Act, the master for the time being shall be deemed to be the employer.

(4) Where an apprentice is transferred pursuant to the last preceding subsection and extra costs are incurred by reason thereof by the Government

See Reprint
of Statutes,
Vol. V, p. 564

Department to which the master is attached the amount of those extra costs shall be paid out of moneys appropriated by Parliament for the purpose.

(5) The provisions of this section are in addition to and not in derogation of the provisions of section 1941, No. 26 fifty-two of the Statutes Amendment Act, 1941.

21. On being satisfied that an apprentice has duly completed his apprenticeship the appropriate local Committee, or, if there is no such Committee, the District Commissioner, shall supply to the apprentice a certificate in the prescribed form that the apprentice has duly completed his apprenticeship.

Certificate of completion of apprenticeship.

22. Without prejudice to the generality of the provisions of section twenty-two of the principal Act, it is hereby declared that regulations may be made under that section providing for the payment to any apprentice who is obliged to live away from home in order to learn his trade of such amount by way of lodging-allowance as may be prescribed by the regulations. Lodging-allowances payable pursuant to the regulations shall be paid out of moneys appropriated by Parliament for the purpose.

Provision for lodging-allowances for apprentices.

23. The enactments mentioned in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

Miscellaneous amendments.

Schedule.

SCHEDULE

MISCELLANEOUS AMENDMENTS

Title of Enactment.	Number of Section affected.	Nature and Extent of Amendment.
<p>1923, No. 41— The Apprentices Act, 1923 (Reprint of Statutes, Vol. V, pp. 579, 580, 581)</p>	<p>Section 5..</p>	<p>By omitting from paragraph (a) of subsection (1) the words "and locality" wherever those words occur, and substituting in the last place where those words occur the words "in the same locality".</p> <p>By omitting from subsection (2) the words "any such order in respect of any locality", and substituting the words "any order made pursuant to this section".</p> <p>By inserting in subsection (4), after the words "shall also have power", the words ", in any apprenticeship order or otherwise."</p> <p>By inserting in paragraph (a) of subsection (4), after the word "employer", the words "or group of employers, jointly and severally,".</p> <p>By omitting from paragraph (g) of subsection (4) the words "where the Court is of opinion that sufficient facilities for the complete training of the apprentice are not provided by the employer and".</p> <p>By inserting in subsection (5), before the word "Committee" where it first occurs, the words "New Zealand".</p> <p>By omitting from subsection (5) the words "and locality".</p> <p>By adding to subsection (5) the words "and the Committee shall, where it can conveniently do so, ascertain the views of local Committees set up in connection with the industry before making any recommendation to the Court".</p>
<p>Ibid., p. 584</p>	<p>.. Section 9</p>	<p>By repealing subsection (7), and substituting the following subsection:—</p> <p>"(7) For the purpose of this Act the Commissioner, any District Commissioner, and any Inspector of Factories may—</p> <p>"(a) 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;</p> <p>"(b) Inquire into the training, progress, and welfare of any apprentice;</p> <p>"(c) Take with him a constable to assist him in the execution of his duty."</p>

MISCELLANEOUS AMENDMENTS—*continued*

Title of Enactment.	Number of Section affected.	Nature and Extent of Amendment.
1923, No. 41— The Apprentices Act, 1923— <i>continued</i> (Reprint of Statutes, Vol. V, p. 584)	Section 10	By omitting the words “as the Court or Committee, as the case may be”, and substituting the words “as the appropriate local Committee, or, where there is no such Committee, the Court.”.
Ibid., pp. 586, 587	Sections 18 and 20	By repealing sections 18 and 20.
1930, No. 25— The Apprentices Amendment Act, 1930 (Reprint of Statutes, Vol. V, p. 591)	Section 5..	By omitting from subsection (1) the words “any Apprenticeship Committee”, and substituting the words “any local Apprenticeship Committee”.
Ibid., p. 592	Section 6..	By omitting from subsection (1) the words “an Apprenticeship Committee” wherever those words occur, and substituting the words “a local Apprenticeship Committee” in both places.
Ibid., pp. 593, 594, 595	Section 6..	By inserting, before the words “Apprenticeship Committee” wherever those words occur in subsections (1) and (3), the word “local”. By omitting from subsection (2) the words “An Apprenticeship Committee”, and substituting the words “A local Apprenticeship Committee”. By inserting, after subsection (2), the following subsection :— “(2A) The Court may at any time reduce the limits of the area within which a local Apprenticeship Committee is authorized to exercise its powers.”
Ibid., p. 596	Section 15	By inserting in subsections (1) and (12), before the words “Apprenticeship Committee”, the word “local”. By adding to subsection (6) the words “and also on the Committee or the District Commissioner, as the case may be,”.
Ibid., p. 596	Section 18	By inserting, after the words “such order”, the words “together with a copy of any amendments thereof”. By inserting, after the words “the order” in both places where those words occur, the words “and amendments”.