



ANALYSIS

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1962, No. 137

An Act to consolidate and amend certain enactments of the General Assembly relating to the employment and accommodation of agricultural workers [14 December 1962]

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 and commencement—(1) This Act may be cited as the Agricultural Workers Act 1962.

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

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

“Agricultural worker” or “worker” means a person employed for any period exceeding one week in agricultural or horticultural or pastoral or silvicultural or flaxmilling or bush working or saw milling work of any kind, or in the keeping and care of sheep, cattle, or pigs for pecuniary gain, but does not include—

(a) Any shearer within the meaning of the Shearers Act 1962; or

(b) Any person who is being trained at any institution established for the training of agricultural workers; or

(c) Any apprentice who is bound by a contract of apprenticeship made under the Apprentices Act 1948:

“Employer” includes every person having the control or superintendence of any farm or other place where any agricultural worker is employed, and also includes every sharemilker as defined in the Sharemilking Agreements Act 1937:

“Inspector” means an Inspector appointed under this Act.

(2) For the purposes of the provisions in this Act relating to accommodation, every worker employed by a sharemilker shall be deemed to be employed by the person who has let the contract to the sharemilker.

Cf. 1936, No. 30, ss. 2, 3

3. Act to bind the Crown—This Act shall bind the Crown.

PART I

ADMINISTRATION

4. Act to be administered in Department of Labour—

(1) This Act shall be administered in the Department of Labour.

(2) The First Schedule to the Labour Department Act 1954 is hereby amended by omitting the reference to the Agricultural Workers Act 1936, and substituting a reference to this Act.

Cf. 1936, No. 30, s. 4

5. Inspectors—(1) There may from time to time be appointed under the State Services Act 1962 such Inspectors as may be required for the purposes of this Act.

(2) Every Inspector of Factories appointed under the Factories Act 1946 shall by virtue of his office be deemed to have been appointed as an Inspector under this Act.

Cf. 1936, No. 30, s. 5

6. Powers of Inspectors—(1) Every Inspector may—

(a) At any reasonable hour enter, inspect, and examine any premises when he has reasonable cause to believe that any worker is or will be employed or accommodated on those premises:

Provided that an Inspector shall not exercise the right of entry conferred by this paragraph unless accompanied by or with the knowledge of the occupier of the premises, or the employer of the persons engaged or accommodated in or about those premises, or the representative or agent of the occupier or employer:

(b) Call to his aid any Inspector appointed pursuant to the Health Act 1956 or any other person whom he may think competent to assist him in his inspection and examination:

(c) Make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act have been or are being complied with:

(d) Examine with respect to matters under this Act, either alone or in the presence of any other person, as he thinks fit, every person whom he finds on the premises or whom he has reasonable cause to believe to be or to have been within the preceding two months employed on the premises, and require any such person to make and sign a statutory declaration setting out his knowledge of the matters on which he is so examined:

(e) Require the production of any book, record, notice, or document which the employer is required by this Act to keep or exhibit, and may inspect, examine, and copy the same.

(2) No person shall, on an examination or inquiry by an Inspector under this section, be required to answer any question tending to incriminate himself.

(3) Except for the purposes of this Act and the exercise of his functions under this Act, an Inspector shall not disclose to any person any information which he acquires in the exercise of those functions.

Cf. 1936, No. 30, s. 6 (1)

7. Certificate of appointment as Inspector—(1) Every Inspector shall be furnished with a certificate of his appointment in the prescribed form, and on applying for admission to any premises or on making inquiries from any person, he shall, if required, produce the certificate.

(2) Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or personates the Inspector named in any certificate, or falsely pretends to be an Inspector, commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both.

Cf. 1936, No. 30, s. 6 (2)

8. Obstruction of Inspector—Every person commits an offence against this Act who obstructs or interferes with any Inspector in the lawful exercise of any of his duties or powers under this Act.

Cf. 1936, No. 30, s. 7

PART II

ACCOMMODATION FOR WORKERS

9. Accommodation to be provided for workers—(1) Subject to section 11 of this Act, it shall be the duty of every employer to provide sufficient and suitable accommodation for every agricultural worker employed by him.

(2) No accommodation shall be sufficient and suitable for the purposes of this Act unless it conforms to or is superior to the prescribed requirements.

(3) The provisions of this section shall not apply in the case of any agricultural worker, who,—

(a) In the opinion of an Inspector, can conveniently sleep at his own home; or

- (b) Chooses to provide his own sleeping accommodation;
- or
- (c) Is a married man accompanied by his wife or family.

Cf. 1936, No. 30, ss. 8, 9, 12

10. Plans of accommodation—(1) Every employer shall, before erecting any building or part of a building which is to be used for the accommodation of agricultural workers, submit to an Inspector for his approval a copy of the plans and specifications for the proposed work.

(2) The Inspector shall approve the plans and specifications if he is satisfied that they indicate that the building will conform to or be superior to the prescribed requirements. If he is not satisfied as aforesaid he shall either approve them subject to such modifications as he thinks necessary to make the building conform to the prescribed requirements, or refuse to approve them.

(3) No employer shall erect any building or part of a building which is to be used for the accommodation of agricultural workers except in accordance with plans and specifications approved under this section.

(4) The Inspector shall be entitled to retain the copy of the plans and specifications submitted to him under this section.

(5) Every employer who fails to comply with the provisions of subsection (1) or subsection (3) of this section commits an offence against this Act.

11. Inspector may modify requirements as to accommodation—(1) Any Inspector may, by notice in writing to the employer, dispense with or modify any of the requirements of this Part of this Act in any case where—

- (a) Any accommodation is already provided before the coming into operation of this Act;
- (b) He is satisfied that, owing to special circumstances, it is or has been impracticable to provide the accommodation required by this Act to be provided; or
- (c) He is satisfied that any such requirement is unnecessary or unreasonable.

(2) Any notice under this section may be at any time revoked by an Inspector by further notice in writing.

Cf. 1936, No. 30, s. 10

12. Notice to employer making default—(1) In any case where in the opinion of the Inspector any provision made by or under this Act relating to the accommodation of workers is not being observed or complied with or is being inadequately observed or complied with by any employer, or in any case where in the opinion of the Inspector there is any defect whatsoever in the accommodation, the Inspector may by notice in writing require that the provisions of the Act be duly and properly observed and complied with or, as the case may be, that the defect be remedied to the satisfaction of the Inspector within a reasonable time to be specified in the notice.

(2) Any such notice may be served on the employer personally, or by leaving it at his last known place of residence or business or by posting it by registered letter to that address. A notice so posted shall be deemed to have been served at the time when the registered letter would, in the ordinary course of post, be delivered.

(3) If the employer considers the requirements stipulated in any such notice to be unreasonable or impracticable he may, within twenty-one days after service thereof, file in the office of the Magistrate's Court nearest to the place where the accommodation is required to be provided, or, with the consent of the Inspector, in the office of any other Magistrate's Court, a notice of appeal setting out with reasonable particularity the grounds of the appeal and shall at the same time serve a copy of the notice of appeal on the Inspector:

Provided that if the Inspector, acting on the advice of a Medical Officer of Health under the Health Act 1956, states in his notice that the requirements are urgently needed for the protection of the health of any agricultural worker, there shall be no right of appeal.

(4) On the filing of any notice of appeal the Magistrate shall fix a time and date for the hearing of the appeal, and the Registrar shall notify the appellant and the Inspector of the time so fixed.

(5) On the hearing of the appeal the Magistrate may by order confirm, modify, or cancel the notice as he thinks fit, and every such order shall be final and binding on both parties.

(6) If the employer, within the time specified in the notice, or, in the case of an appeal, within the time specified in the order of the Magistrate, fails to comply with any such notice or order, he commits an offence against this Act.

(7) In any case where an Inspector has, by notice to the employer, required him to do anything or carry out any work which in the opinion of the employer cannot be carried out

without making alterations to a building, the employer, if he is not the owner of the building, may, within twenty-one days after the notice is served on him, serve a copy thereof on the owner or on the agent of the owner.

(8) If the employer duly serves a copy of the notice on the owner or his agent as aforesaid he shall be entitled to recover in any Court of competent jurisdiction from the owner, as a debt, such part of the cost of making the alterations as in the opinion of the Court is just and equitable having regard to all the circumstances of the case.

(9) The owner or his agent shall have the right at any time within twenty-one days after the copy of the notice is served on him as provided in subsection (7) of this section to appeal to a Magistrate against the notice and the provisions of subsection (3) of this section shall apply accordingly.

Cf. 1936, No. 30, s. 11

13. Damage by workers—(1) If any agricultural worker negligently causes or suffers any damage to be done to any accommodation, utensils, appliances, furniture, fittings or other requisites provided under this Act he commits an offence against this Act.

(2) On the conviction of any person for an offence against this section the Court may order that the person convicted shall pay, by way of compensation to the person whose property is damaged, such sum of money as the Court thinks fit.

14. Accommodation to be kept clean—(1) Every worker shall keep the rooms occupied by him and the surroundings clean and free of all rubbish and, if he fails to do so, the employer may employ some other person to do the work, and may deduct the cost of such work from any money due to or accruing due to the worker occupying the rooms.

(2) The employer shall ensure that the accommodation and the surroundings of the accommodation are clean and free of all rubbish before occupation by agricultural workers.

PART III

AGRICULTURAL WORKERS ORDERS

15. Orders in Council prescribing conditions of employment—(1) The Governor-General may from time to time, by Order in Council, prescribe the minimum rates of wages and other conditions of employment to apply in respect of any specified class or classes of agricultural workers.

(2) The Governor-General may incorporate in any such Order in Council the terms of any agreement reached between organisations of workers of the class affected and organisations of their employers pursuant to section 16 of this Act or of any recommendation of the Court of Arbitration made under section 17 of this Act.

(3) Notwithstanding anything contained elsewhere in this Act for the purposes of this Part of this Act the term "worker" includes any person employed in any of the classes of work performed by an agricultural worker irrespective of the time for which he is employed:

Provided that no provision relating to accommodation contained in any order made under this Part of this Act shall apply to any such person who is employed for any period of less than one week.

(4) For the purposes of this section the term "conditions of employment" includes all those matters which the Court of Arbitration is empowered to include in an award under the Industrial Conciliation and Arbitration Act 1954.

Cf. 1936, No. 30, ss. 14 (3), 20 (1)

16. Agreement of organisations of workers and employers—Before any Order in Council is made under section 15 of this Act in respect of any class of agricultural workers an opportunity shall be given to the organisations of workers of that class and to the organisations of their employers to confer with a view to reaching agreement on provisions to be included in the order.

Cf. 1936, No. 30, s. 20 (2)

17. Recommendations of the Court of Arbitration—(1) In any case in which agreement is not reached under section 16 of this Act the matters in dispute may be referred to the Court of Arbitration by any of the organisations of workers of the class affected or of their employers.

(2) The Court of Arbitration may hear representations in respect to the matters in dispute and may make a recommendation thereon to the Minister of Labour.

(3) In the exercise of the powers conferred upon it by this section the Court of Arbitration shall act in the capacity of an arbitrator, but nothing in the Arbitration Act 1908 shall apply thereto and nothing in this section shall be so construed as to limit the powers which the Court may exercise for the purposes of this section.

(4) Any party to the proceedings before the Court may appear personally or by agent, or, with the consent of all the parties, by barrister or solicitor, and may produce before the Court such witnesses, books, and documents as that party thinks proper.

Cf. 1945, No. 40, s. 4 (2)–(4)

18. Effect of Order in Council—Every Order in Council made under this Part of this Act shall have effect according to its tenor, and shall come into force or shall be deemed to have come into force on a date to be specified in the order, whether that date is before or after the date of the making of the order.

Cf. 1936, No. 30, s. 20 (3); 1947, No. 45, s. 31 (1) (c)

19. Deductions from wages—In every Order in Council made under this Part of this Act there shall be or shall be deemed to be included a provision that—

- (a) No deduction in respect of time lost by any worker shall be made from the wages payable to him except for time lost by reason of the default of the worker or by reason of his illness or any accident suffered by him; and
- (b) The employer may, at the worker's request, by agreement in writing signed by the worker, deduct from any wages payable to the worker the cost of goods supplied to the worker.

Cf. 1936, No. 30, s. 14 (5)

20. Breaches of orders—(1) If any employer makes default in the full payment of any wages or other remuneration payable by him pursuant to any order made under this Part of this Act, or if any employer or worker of a class affected thereby fails to observe any provision of or any requirement imposed by any such order he commits a breach of the order and shall be liable to a penalty not exceeding fifty pounds in respect of every such breach.

(2) Any penalty under this section may be recovered at the suit of an Inspector or of any organisation of workers of a class affected by the order or of any organisation of their employers in the same manner as a penalty for breach of an award may be recovered under the Industrial Conciliation and Arbitration Act 1954 and the provisions of sections 200

to 210 of that Act shall apply accordingly with such modifications as may be necessary.

Cf. 1936, No. 30, s. 18; 1954, No. 90, s. 35

21. Recovery of arrears of wages—Without affecting any other remedies for the recovery of money payable to any agricultural worker, proceedings for the recovery of wages or other money payable by an employer to any agricultural worker pursuant to an order made under this Part of this Act may be taken by an Inspector in the same manner as proceedings under the Industrial Conciliation and Arbitration Act 1954 for the recovery of money due to a worker by his employer under an award or agreement, and all the provisions of that Act relating to the recovery of money due to workers under awards or agreements shall, with the necessary modifications, apply accordingly.

Cf. 1936, No. 30, s. 19

22. Orders not to apply to workers otherwise covered—Nothing in this Part of this Act shall apply to any worker whose wages are prescribed by an award of the Court of Arbitration or by a determination or a wage worker determination of the State Services Commission or by an order of the Government Service Tribunal.

PART IV

GENERAL PROVISIONS AS TO EMPLOYMENT

23. Restricting employment of children—(1) No child under the age of fifteen years shall—

- (a) Be employed in any of the classes of work performed by an agricultural worker during such times as the child is required to attend school pursuant to section 59 of the Education Act 1914:
- (b) Be required to lift any weights, or to perform any task, likely to be injurious to his health while employed in any of those classes of work; and if any dispute arises as to whether the lifting of any weight, or the performance of any task, is likely to be injurious to the health of the child the opinion of the Medical Officer of Health shall be obtained and his decision accepted:
- (c) Work more than eight hours in any of those classes of work in any one day.

(2) Every person who employs any child in contravention of any of the provisions of this section commits an offence against this Act.

Cf. 1936, No. 30, s. 13

24. Permit to work for less than minimum wage—(1) If any agricultural worker satisfies an Inspector that he is incapable of earning wages at the appropriate minimum rate for the time being prescribed under any Order in Council made pursuant to Part III of this Act, the Inspector may from time to time grant him a permit to accept wages at such lower rate as may be specified in the permit. A permit granted to any agricultural worker under this section shall continue in force for the period specified in the permit; and while it continues in force the rate of wages prescribed in the permit shall be deemed to be the minimum rate of wages prescribed under Part III of this Act in respect of that worker.

(2) Notwithstanding that the rate of wages specified in a permit under this section may be less than the minimum rate for the time being prescribed in the Minimum Wage Act 1945, or any Order in Council made pursuant thereto, such permit shall have full effect as if issued under that Act.

Cf. 1936, No. 30, s. 14 (6); 1936, No. 58, s. 5 (1)

25. Permit for female to work for less than minimum wage—A permit may be granted under section 24 of this Act to any woman or girl employed as an agricultural worker if the Inspector is satisfied having regard to the conditions of her employment, the nature of work performed by her, the time occupied in the performance of her work, and any other relevant circumstances, that she is not reasonably entitled to wages at the prescribed minimum rate. Where a permit is granted for the purposes of this section the Inspector may also reduce to such amount as he thinks fit the amount (if any) payable to the woman or girl in respect of her board and lodging pursuant to any Order in Council made under Part III of this Act.

Cf. 1936, No. 58, s. 5 (2)

26. Payment of wages—Payment of wages (including wages and allowances payable in respect of holidays) shall be made in full at monthly or at such shorter intervals as may be agreed on by the employer and the worker or as may be prescribed in any order.

Cf. 1936, No. 30, s. 16

27. Wages and holiday book—(1) Every employer shall at all times keep a record in English (called the wages and holiday book) showing in the case of each agricultural worker (other than a bush worker) employed by him—

- (a) The name of the worker:
- (b) His age, if he is under twenty-one years of age:
- (c) The daily hours worked by the worker if he is not on a weekly wage:
- (d) The days on which he has actually been employed:
- (e) The wages paid on each pay day, the date of payment, and the period to which payment relates:
- (f) The days on which he is allowed any holiday:
- (g) The wages paid for each holiday and the date of payment:

Provided that in respect of any worker employed upon piece work it shall be sufficient if the wages and holiday book shows the following particulars:

- (a) The name of the worker:
- (b) The rate agreed for piece work:
- (c) The days upon which or the period during which the worker was employed:
- (d) The wages paid and the date of payment:
- (e) The wages paid for each holiday and the date of payment.

(2) The wages and holiday 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 an Inspector.

(3) Every employer who fails to comply with any of the provisions of this section commits an offence against this Act.

Cf. 1936, No. 30, s. 17 (1), (3)

28. First aid—(1) Every employer shall provide and maintain first-aid appliances and requisites to the satisfaction of an Inspector, or, where a standard is prescribed, shall provide and maintain first-aid appliances and requisites of the prescribed standard.

(2) Every employer who fails to comply with the provisions of this section commits an offence against this Act.

PART V

MISCELLANEOUS PROVISIONS

29. General penalty for offences—Every person who commits an offence against this Act or against any regulations made under this Act for which no penalty is provided elsewhere than in this section shall be liable on summary con-

viction to a fine not exceeding fifty pounds and, if the offence is a continuing one, to a further fine not exceeding two pounds for every day on which the offence has continued.

Cf. 1936, No. 30, s. 21

30. Provisions as to procedure—(1) All proceedings in respect of offences against this Act or against any regulations made under this Act shall be taken in a summary way.

(2) All such proceedings as aforesaid shall be taken only on the information of an Inspector.

(3) An Inspector who lays an information in respect of any offence under this Act shall not be called on to prove that he is an Inspector. Any such information may be proceeded with and conducted by the same or any other Inspector or by any person permitted by the Magistrate to conduct the same.

Cf. 1936, No. 30, s. 22

31. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing minimum standards for the design, construction, and situation of accommodation required to be provided for agricultural workers under this Act:
- (b) Prescribing the amenities, being any articles or facilities which are likely to contribute to the health, comfort, or welfare of agricultural workers, to be provided in or in connection with such accommodation, and minimum standards for such amenities:
- (c) The cleansing, disinfection, fumigation, and maintenance of such accommodation:
- (d) Providing for the safety, health, and welfare of persons employed in any of the classes of work performed by agricultural workers:
- (e) Prescribing forms required for the purposes of this Act:
- (f) Prescribing fines not exceeding fifty pounds for the breach of any regulation made under this Act:
- (g) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

Cf. 1936, No. 30, s. 23

32. Repeals and savings—(1) The enactments mentioned in the Schedule to this Act are hereby repealed.

(2) Section 15 of the Agricultural Workers Act 1936 and section 3 of the Statutes Amendment Act 1937 shall continue to apply, notwithstanding their repeal, to workers employed on dairy farms and to their employers until such time as the said sections are declared not to apply to such workers and their employers by an Order in Council made under Part III of this Act.

(3) All matters and proceedings commenced under any enactment repealed by this Act and pending or in progress on the commencement of this Act may be continued, completed, and enforced under this Act.

Section 32 (1)

SCHEDULE

ENACTMENTS REPEALED

- 1936, No. 30—The Agricultural Workers Act 1936. (1957 Reprint, Vol. 1, p. 143.)
 1936, No. 58—The Statutes Amendment Act 1936: Section 5. (1957 Reprint, Vol. 1, p. 156.)
 1937, No. 28—The Agricultural Workers Amendment Act 1937. (1957 Reprint, Vol. 1, p. 156.)
 1937, No. 38—The Statutes Amendment Act 1937: Section 3. (1957 Reprint, Vol. 1, p. 157.)
 1945, No. 40—The Statutes Amendment Act 1945: Section 4. (1957 Reprint, Vol. 1, p. 157.)
 1947, No. 45—The Finance Act (No. 2) 1947: Section 31. (1957 Reprint, Vol. 1, p. 157.)
 1954, No. 90—The Finance Act 1954: Section 35. (1957 Reprint, Vol. 1, p. 158.)

This Act is administered in the Department of Labour.