



ANALYSIS

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1969, No. 37

An Act to provide for the periodic review and adjustment of rates of remuneration prescribed in awards and industrial agreements [18 September 1969]

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—This Act may be cited as the General Wage Orders Act 1969.

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

“Apprenticeship order” means an order made by the Court of Arbitration under section 13 of the Apprentices Act 1948:

“Award” means an award of the Court of Arbitration made under the Industrial Conciliation and Arbitration Act 1954:

“Court” means the Court of Arbitration established under the Industrial Conciliation and Arbitration Act 1954:

“General order” means a general order made by the Court under this Act:

“Industrial agreement” means an industrial agreement entered into under the Industrial Conciliation and Arbitration Act 1954; and includes an agreement filed with a Clerk of Awards under section 8 of the Labour Disputes Investigation Act 1913:

“Remuneration” means salary or wages and all other payments of any kind whatsoever prescribed in awards and industrial agreements:

“Tribunal” means the Government Service Tribunal established under the Government Service Tribunal Act 1965, the Government Railways Industrial Tribunal established under the Government Railways Act 1949, or the Waterfront Industry Tribunal established under the Waterfront Industry Act 1953.

3. General purpose of Act—(1) The general purpose of this Act is to provide for the making from time to time of a just and equitable review of rates of remuneration in awards and industrial agreements.

(2) Every such review shall be for the purpose of considering whether an adjustment should be made in the rates of remuneration in order to—

- (a) Maintain and promote living standards, so far as it is within the capacity of the economy to sustain such an adjustment; and
- (b) Promote industrial harmony; and
- (c) Maintain and promote exports by New Zealand industry.

4. Jurisdiction and procedure of Court—(1) For the purposes of this Act, the Court of Arbitration shall have jurisdiction to hold hearings, make general orders, and do all other things provided for in this Act.

(2) For the purposes of any hearing or other proceedings under this Act, the Judge of the Court may of his own motion—

- (a) Summon before the Court any expert witness to give evidence of a statistical nature, and compel production before the Court of any books and documents of a statistical nature; and

(b) With the consent of the parties being heard, or if there is no objection from any such party, summon before the Court any witness and compel the production of any books and documents.

(3) The Judge or the Registrar of the Court, or any Clerk of Awards purporting to act by direction or with the authority of the Judge, may issue summonses requiring the attendance of witnesses before the Court, or the production of documents, and may do any other act preliminary or incidental to the hearing of any matter by the Court under this Act.

(4) Subject to the provisions of this Act, the provisions of the Industrial Conciliation and Arbitration Act 1954 as to the jurisdiction and procedure of the Court shall apply, so far as they are applicable and with the necessary modifications, in relation to any hearing by the Court under this Act in like manner as they apply to other proceedings before the Court.

(5) On the application of either of the national organisations described in subsection (6) of this section, the Court shall invite representatives from each such organisation to consult with it at an appointed time and place, before the commencement of the hearing, in respect of matters of procedure related to the hearing.

(6) The national organisations referred to in subsection (5) of this section are—

(a) The national organisation of employers which is most representative of employers in New Zealand and is formed for the purpose of protecting or furthering the interests of employers in connection with conditions of employment:

(b) The national organisation of workers which is most representative of workers in New Zealand and is formed for the purpose of protecting or furthering the interests of workers in connection with conditions of employment.

5. General orders—(1) Subject to the provisions of this Act, the Court may from time to time, of its own motion or on the application of any industrial union or industrial association of employers or workers made in that behalf, by general order amend the provisions of all awards and industrial agreements for the time being in force so far as those provisions determine the rates of remuneration of

workers, to the intent that those rates shall be increased or reduced as the Court thinks just and equitable.

(2) The Court shall not make any general order to take effect less than 6 months after the date on which any previous general order has taken effect.

(3) For the purposes of subsection (1) of this section, the Court shall take into account, so far as they affect or relate to the whole of New Zealand, the evidence and submissions in respect of the following matters:

(a) Any rise or fall in retail prices:

(b) The economic conditions affecting finance, trade, and industry:

(c) Any increase or decrease in productivity and in the volume and value of production in all industry:

(d) Relative movements in the incomes of different sections of the community:

(e) Any increase or decrease in minimum rates of remuneration:

(f) Such other matters as the Court considers relevant:

Provided that the Court shall not take any matter into account under this paragraph without first giving the parties an opportunity to make submissions or, if they so wish, present evidence on that matter.

(4) In taking into account the matters mentioned in subsection (3) of this section, the Court shall not be restricted—

(a) To events occurring since the date of the last general order previously made by the Court under this Act or any former regulations; or

(b) To events that have occurred before the date of the hearing.

(5) The matters that the Court is required to take into account under subsection (3) of this section, so far as they affect or relate to the whole of New Zealand, shall not be taken into account in conciliation or arbitration proceedings or in negotiations for an industrial agreement; but this subsection shall not prevent the parties to any such proceedings or negotiations, or the Court, from taking into account any of the said matters so far as they specifically affect or relate to the industry to which the proceedings or negotiations relate or are relevant to the proceedings or negotiations.

(6) Before making any general order the Court shall afford such opportunity to be heard as it thinks proper to representatives appointed by the parties bound by awards and industrial agreements or by orders of Tribunals:

Provided that the failure of any parties to appoint any such representative shall not affect the validity of any general order, and the validity of any general order shall not be questioned on the ground that sufficient or adequate opportunity to be heard by the Court has not been afforded to any person affected.

(7) Every general order made under this section shall be filed with the Clerk of Awards in every industrial district and, subject to the provisions of sections 6 to 8 of this Act, shall be deemed to have been incorporated in every award and industrial agreement in force in the industrial district on and from the date of the general order, or on and from such later date as may be specified in the general order in that behalf, and shall have effect according to its tenor.

6. Exclusions from general orders—(1) The Court may by any general order or a subsequent order, of its own motion or on application made not later than 28 days after the date of the general order by any party to an award or industrial agreement, make such provision as it considers just and equitable for any class or section of workers if it is satisfied that by reason of the special provisions of any awards or industrial agreements affecting those workers, or of economic and financial conditions affecting any trade or industry, or of any other relevant consideration, that class or section of workers should be excluded from the operation of the general order.

(2) Where the Court has of its own motion excluded any class or section of workers from the operation of a general order, the Court may by a subsequent order, on application made, not later than 28 days after the date of the order making the exclusion, by any party to an award or industrial agreement, make such order applying to that class or section of workers or any of them as the Court considers just and equitable.

(3) Every application under this section shall state the special grounds on which the application is based and shall be filed with the Clerk of Awards in the industrial district in which the award or industrial agreement is filed, and when a date has been fixed by the Court for the hearing of the application the Clerk shall forthwith give notice to the parties concerned.

(4) Every order made under this section after a general order shall be deemed to have come into force on the date on which the general order took effect, or on such later date

(not later than the date of the subsequent order) as the Court in its discretion determines.

7. Exclusion of general order by agreement—(1) The parties to any industrial agreement, or the assessors in conciliation proceedings, may by agreement include in the industrial agreement, or have included in the award, a provision to the effect that no general order shall apply to it.

(2) No general order shall apply to any industrial agreement or award that contains any such provision as aforesaid.

(3) No general order shall apply to any award or industrial agreement that contains a provision to the effect that the rates of remuneration of workers affected by the award or agreement shall be adjusted in the like manner as the rates of remuneration of employees in the Public Service are adjusted pursuant to section 42 of the State Services Act 1962.

8. Scope of general orders—(1) In making any general order the Court may exclude from the scope of the order such portion of the remuneration in each week of the workers affected by the order as exceeds an amount determined by the Court, which amount may be varied as the Court thinks fit in the case of female workers and junior workers respectively.

(2) Where any such exclusion is made, the increase or reduction provided for by the order shall apply to the unexcluded portion of the remuneration of each worker.

9. Pronouncement as to application of orders to awards—(1) In this section and section 10 of this Act, the expression “general or other order” means any general order or other order for the time being in force under the foregoing provisions of this Act, whether made before or at any time after the passing of this Act.

(2) Subject to the provisions of this Act, the Court may, of its own motion or on the application of any industrial union or industrial association of employers or workers made in that behalf, make a pronouncement to the effect that the Court, when making any award to supersede, in whole or in part, any award or industrial agreement to which any general or other order applies, or to which it is specifically applied by

any provision in that award or industrial agreement, will incorporate in such rates of remuneration as the Court thinks just and equitable, as an integral part of those rates, the effect of the general or other order.

(3) Before making a pronouncement under this section, the Court shall afford such opportunity to be heard as it thinks proper to representatives appointed by the parties bound by awards and industrial agreements or by orders of Tribunals:

Provided that the failure of any parties to appoint any such representative shall not affect the application by the Court to any award of the provisions of the pronouncement, and no such application shall be questioned on the ground that sufficient or adequate opportunity to be heard by the Court has not been afforded to any person affected.

(4) Any application for a pronouncement under this section may be made in conjunction with any application for a general order.

(5) The provisions of a pronouncement made under this section shall be applied from such date, not being earlier than the date of the making of the pronouncement, as the Court in its discretion determines.

(6) Where a pronouncement is made under this section, the Court may from time to time, in its discretion, declare the principles that it will observe when incorporating in any award the effect of any general or other order.

10. Duty of Court in applying orders to awards—In giving effect, in the making of any award, to a pronouncement made under section 9 of this Act, the Court shall ensure that as a result of the incorporation by the Court of the effect of the general or other order in any rates of remuneration determined by the award no worker bound by the award will in any week—

- (a) Where the order increased rates of remuneration, receive under the award less than he would receive if the award specifically applied the order otherwise than by such incorporation as aforesaid:
- (b) Where the order reduced rates of remuneration, suffer a greater reduction in the amount he receives under the award than he would suffer if the award specifically applied the order otherwise than by such incorporation as aforesaid.

11. Apprentices—(1) The powers conferred on the Court by sections 5, 6, and 8 of this Act may, on application in that behalf, be exercised by the Court in respect of any apprenticeship order that is in force when the powers are exercised in respect of any award or industrial agreement, unless the amendment made to the award or industrial agreement automatically applies to the apprenticeship order by reason of the fact that the rates of remuneration of apprentices are fixed by the apprenticeship order as proportions of the rates of remuneration from time to time fixed for journeymen.

(2) Any amendment made by the Court under this section to any apprenticeship order shall, on and from the date on which it takes effect, be deemed to apply according to its tenor to all contracts of apprenticeship in force on that date and entered into subject either to the provisions of that apprenticeship order or to the provisions of an apprenticeship order that has before that date been superseded directly or indirectly by that apprenticeship order; and where the amendment takes effect before the date on which it is made it shall, on and from the date of the commencement of the apprenticeship, be deemed to apply according to its tenor to every contract of apprenticeship so entered into between the time at which the amendment takes effect and the date on which it is made.

(3) Where an amendment has been made by the Court under this section to any apprenticeship order the Court may of its own motion, after affording the Apprenticeship Committees concerned (if any) an opportunity of being heard or of making written submissions, make a corresponding amendment to such other apprenticeship orders as the Court thinks fit, whether in respect of the same industry or any other industry.

12. Varying application of awards and industrial agreements—(1) This section applies to every provision in an award or industrial agreement which provides that the award or industrial agreement or any part thereof shall or shall not apply to any class of workers defined by reference to a specified rate of remuneration.

(2) Where a general order increases or reduces any rates of remuneration determined by an award or industrial agreement that contains any provision to which this section applies, the general order shall be deemed to apply to every rate of remuneration specified in that provision.

13. Act to be administered by the Department of Labour—

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

(2) The First Schedule to the Labour Department Act 1954 is hereby amended by adding the words “The General Wage Orders Act 1969”.

14. Revocations and amendments—(1) The following regulations are hereby revoked, namely:

- (a) The Economic Stabilisation Regulations 1953:
- (b) The Economic Stabilisation Regulations 1953, Amendment No. 1:
- (c) The Economic Stabilisation Regulations 1953, Amendment No. 2:
- (d) The Economic Stabilisation Regulations 1953, Amendment No. 3:
- (e) The Economic Stabilisation Regulations 1953, Amendment No. 4:
- (f) The Economic Stabilisation Regulations 1953, Amendment No. 5.

(2) Every reference in any Act, rule, regulation, bylaw, judgment, order, contract, agreement, award, industrial agreement, or other document whatsoever to the regulations revoked by this section shall hereafter, unless the context otherwise requires, be read as a reference to this Act.

(3) Every reference in any Act, rule, regulation, bylaw, judgment, order, contract, agreement, award, industrial agreement, or other document whatsoever to any general order, or to any order, made under the Economic Stabilisation Regulations 1953, or made under any regulations under the Economic Stabilisation Act 1948, shall hereafter, unless the context otherwise requires, be read as a reference to a general order, or, as the case may require, an order, made under this Act.

This Act is administered in the Department of Labour.
