

**NEW ZEALAND****ANALYSIS**

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1951, No. 61

AN ACT to amend the Industrial Conciliation and Title.  
 Arbitration Act 1925. [5 December 1951]

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

1. This Act may be cited as the Industrial Conciliation and Arbitration Amendment Act 1951, and shall be read together with and deemed part of the Industrial Conciliation and Arbitration Act 1925 (hereinafter referred to as the principal Act). See Reprint of Statutes, Vol. III, p. 939

**PART I****MISCELLANEOUS AMENDMENTS**

2. Section two of the principal Act is hereby amended by inserting in subsection one, after the definition of the term "employer", the following definition:—

"Financial member", in relation to any industrial union of workers or of employers or to any society of workers, means a member of the union or society who is a financial member within the meaning of the rules of the union or society; or, in any case where the rules do not contain any definition of a

Definition of "financial member".

financial member, means a member of the union or society who is not in arrear for more than six months in payment of any subscription, fine, or levy payable by him to the union or society: ".

### *Rules of Unions*

Rules of  
industrial  
unions as  
to election of  
officers by  
secret ballot,  
and as to  
statutory  
provisions.

3. (1) Section five of the principal Act is hereby amended by repealing subparagraphs (i) and (ii) of paragraph (c) of subsection one, and substituting the following subparagraphs:—

“(i) The election or (if and so far as approved by the Registrar) the appointment of a committee of management, a president, a secretary, and any other necessary officers of the society or of any branch thereof, and delegates to conferences of the society, and the removal of any of them, and the filling of vacancies, so that the election, removal, and filling of vacancies shall be by secret postal ballot of the financial members of the society or branch, or by such other secret ballot or other method as may be approved by the Registrar as being sufficiently democratic, having regard to the form of government of the society and all other relevant considerations:

“(ii) The powers and duties of the committee and of the president and secretary and of any other officers:”

(2) Section five of the principal Act is hereby further amended by inserting in paragraph (c) of subsection one, after subparagraph (x), the following new subparagraph:—

“(xA) Any matter that is for the time being deemed or required by this or any other Act to be included in the rules:”.

(3) The Registrar may at any time require any industrial union which is registered at the passing of this Act to amend its rules to bring them into conformity with section five of the principal Act as amended by this section, and any such amendment may be made by the committee of management of the

union. If any such requirement is not complied with within such period as may be specified by the Registrar, the Registrar may amend the rules in such manner as he thinks fit in order to give effect to the requirement, and may record the amendment.

(4) Where the Registrar amends any rules and records the amendment under this section he shall supply a copy of the amendment to the secretary of the union concerned, and the rules shall thereupon be deemed to be amended accordingly on and from the date of the recording of the amendment.

**4.** (1) Where the Registrar is of opinion that any rule, or any amendment or alteration of a rule, is in any way unreasonable or oppressive, he may refuse to record it in accordance with subsection two of section six or subsection one of section thirteen of the principal Act, as the case may be.

Unreasonable or  
oppressive  
rules.

(2) Where the Registrar refuses under this section to record any rule or any amendment or alteration of a rule, the society or industrial union concerned may in the prescribed manner appeal against the refusal to the Court, whereupon the Court, after making full inquiry, shall direct the Registrar whether his refusal should be insisted on or waived, and the Registrar shall act accordingly.

**5.** Section four of the Industrial Conciliation and Arbitration Amendment Act 1936 is hereby amended by inserting, after subsection one, the following subsection:—

Restricting  
extension  
of unions.  
1936, No. 6

“(1A) Except with the concurrence of the Minister, it shall not be lawful for the rules of any industrial union of employers or industrial union of workers to be amended or altered for the purpose of extending the membership of the union so as to include employers or workers in or in connection with any industry if there is in the same industrial district an existing union of employers or of workers, as the case may be, registered in respect of that industry (whether or not the maximum number of members of that union is limited by its rules or otherwise), or if there is in the same industrial district an existing trade union which was registered as such

before the first day of May, nineteen hundred and thirty-six, and to which employers or workers, as the case may be, in or in connection with that industry could properly belong."

### *Compulsory Unionism*

Exemption  
from union  
membership  
on religious  
grounds.

1949, No. 23

6. (1) Any person who objects on religious grounds to being a member of a union may apply to the Registrar of Industrial Unions for a certificate of exemption from membership of any union covering the calling in which the applicant is for the time being employed.

(2) The Registrar shall refer every such application to the Conscientious Objection Committee appointed under the Military Training Act 1949.

(3) If, after hearing any such application, the Conscientious Objection Committee is satisfied that the applicant's religious objections are genuine, the Committee shall notify the Registrar accordingly, and on payment by the applicant to the credit of the Social Security Fund of an amount equal to the subscription fixed by the union, the Registrar shall issue to the applicant a certificate of exemption from membership of the union for the period specified in the certificate, and may from time to time, if he thinks fit, issue certificates for subsequent periods without further reference to the Committee.

(4) A certificate of exemption issued to any person under this section shall, while it continues in force, permit the employment or the continuation of the employment of that person in any position or employment as if he were a member of the union to which the certificate relates.

### *National Organizations*

Affiliation of  
unions and  
associations to  
national  
organizations.

7. (1) Any industrial union or industrial association may be a member of or be affiliated to any organization formed for the purpose of protecting or furthering the interests of employers or workers in connection with conditions of employment throughout New Zealand, whether or not the organization is an industrial union or industrial association registered under this Act.

(2) Every industrial union or industrial association that on the passing of this Act is in accordance with the rules of any such organization a member of or affiliated

to the organization shall be deemed to be and to have heretofore been lawfully a member of or affiliated to the organization:

Provided that nothing in this subsection shall be deemed to affect any judgment given by any Court in any proceedings before the passing of this Act, in so far as the judgment relates to the parties to the proceedings.

### *Conciliation*

**8.** Section thirty-five of the Statutes Amendment Act 1946 is hereby amended by inserting in subsection one, after the words "claims made by the applicants", the words "or the statement of the respondents".

Amendment of  
respondents'  
statement.  
1946, No. 40

**9.** (1) Section fifty-five of the principal Act (as amended by section fourteen of the Industrial Conciliation and Arbitration Amendment Act 1936) is hereby further amended by omitting from subsection one the words "may be reduced to writing, executed on behalf of the parties by the assessors", and substituting the words "shall be reduced to writing, signed—

Mode of  
execution of  
terms of  
settlement  
or partial  
settlement, and  
of industrial  
agreements.  
1936, No. 6

"(a) On behalf of the applicants, by the assessors for the applicants or by such one or more of those assessors as may be authorized in writing to sign the same by all those assessors; and

"(b) On behalf of the respondents, by the assessors for the respondents or by such one or more of those assessors as may be authorized in writing to sign the same by all those assessors; and

"(c) By the Commissioner,—".

(2) Section fourteen of the Industrial Conciliation and Arbitration Amendment Act 1936 is hereby amended by repealing subsection one, and substituting the following subsection:—

"(1) Every industrial agreement made under the last preceding section shall be signed—

"(a) On behalf of the applicants, by the assessors for the applicants or by such one or more of those assessors as may be authorized in writing to sign the agreement by all those assessors; and

“(b) On behalf of the respondents, by the assessors for the respondents or by such one or more of those assessors as may be authorized in writing to sign the agreement by all those assessors; and

“(c) By the Commissioner.”

(3) Section three of the Industrial Conciliation and Arbitration Amendment Act (No. 2) 1939 is hereby amended as follows:—

(a) By inserting in subsection one, after the words “reduced to writing”, the words “executed in the manner prescribed for an industrial agreement made under the said section thirteen”:

(b) By inserting in subsection one, after the word “assessors”, the words “signing the terms”.

(4) Subsection two of the said section fourteen of the Industrial Conciliation and Arbitration Amendment Act 1936 is hereby consequentially repealed.

**10.** Section fifty-eight of the principal Act is hereby amended by adding to subsection two the following proviso:—

“Provided also that an application to which subsection four of section forty-one hereof applies may be made at any time not earlier than four months before the expiration of the currency of the award or agreement.”

### *Awards*

**11.** (1) Section eighty-nine of the principal Act is hereby amended by repealing subsection eight (as substituted by section twenty-one of the Statutes Amendment Act 1948), and substituting the following subsection:—

“(8) In making its award the Court shall, unless the parties otherwise agree, direct that any provision of the award relating to the rate of wages to be paid shall have effect,—

“(a) In the case of an award relating to the whole or part of one industrial district, as from the expiration of two months; and

“(b) In the case of an award relating to the whole or part of two or more industrial districts, as from the expiration of four months—

Repeal.  
1936, No. 6

Application to  
refer dispute  
affecting two or  
more districts  
to Council of  
Conciliation.

Date of  
commencement  
of provisions of  
award as to  
rates of  
wages.

1948, No. 77

after the date first appointed for the hearing by the Conciliation Council of the industrial dispute in respect of which the award is made, or as from the date of the making of the award, whichever is the earlier, or as from such other date as the Court in its discretion thinks fit, after taking into consideration all relevant matters, including any undue delay that may have been caused by any party to the dispute between the date of the filing of the application for the hearing of the dispute with the Clerk of Awards and the date of the making of the award:

“ Provided that in no case shall the date on which the award or any part thereof is to become operative be earlier than the date of the expiration of the currency of any existing award or industrial agreement being wholly or partially superseded by the award being made under this section.”

(2) Section twenty-one of the Statutes Amendment Act 1948 is hereby consequentially repealed.

Repeal.  
1948, No. 77

(3) This section shall not apply in any case where a notification that a settlement of the dispute has not been arrived at has been delivered to the Clerk of Awards pursuant to section fifty-three of the principal Act before the passing of this Act.

12. (1) Section ninety-two of the principal Act is hereby amended by inserting in paragraph (c) of subsection one, before the word “ parties ”, the word “ original ”.

Power to  
amend award  
at request  
of original  
parties.

(2) The said section ninety-two is hereby further amended by adding to paragraph (c) of subsection one the following proviso:—

“ Provided that any party to the award not being an original party thereto may, at any time within one month after the date of any such amendment, apply to the Court for total or partial exemption from the amendment, and the Court may grant any such application wholly or in part, or may refuse to grant exemption. The fact that application for exemption from any such amendment has been made and has not been disposed of shall not relieve any party from his obligation to conform to the amendment.”

**Local Disputes Committees.***Disputes Committees*

**13.** (1) In any award or industrial agreement provision may be made to the effect that, if during the operation of the award or industrial agreement any dispute or difference arises between the parties or any of them as to any matter arising out of or connected with the award or agreement but not specifically dealt with therein, the dispute or difference shall be referred at the request of any party thereto to a Local Disputes Committee consisting of an equal number of representatives (not exceeding three) nominated respectively by the workers' union and the employer or employers concerned, together with a Chairman, to be appointed as hereinafter provided.

(2) The party desiring reference of any dispute or difference to a Local Disputes Committee shall make application therefor to a Conciliation Commissioner, and shall notify him of the names and addresses of the persons nominated as members of the Committee by the workers' union or (as the case may be) by the employer or employers.

(3) The Conciliation Commissioner shall forthwith notify the other party or parties to the dispute or difference of the application, and shall require the other party or parties to notify him within seven days of the names and addresses of the persons nominated as members of the Committee by the employer or employers or (as the case may be) by the workers' union:

Provided that where provision has been made for the appointment of a National Disputes Committee the Conciliation Commissioner may in his discretion refer the application to the Registrar of Industrial Unions, and in every such case the dispute or difference shall be deemed to be referred to the National Disputes Committee.

(4) On receipt of the required nominations the Conciliation Commissioner shall require the nominated persons to agree on the appointment of a Chairman.

(5) Where a Conciliation Commissioner is satisfied that there has been a refusal or failure to nominate members of a Local Disputes Committee or to appoint

a Chairman or to hold a meeting of any such Committee or, undue delay in doing any of those things, the Commissioner may appoint the required members of the Committee, or appoint himself or any other person as Chairman of the Committee, or call a meeting of the Committee, as the case may be.

(6) Where a Local Disputes Committee is unable to arrive at a decision after consideration of a dispute or difference, or where the representatives of either party have failed to attend a meeting of the Committee of which they have received notice, the Chairman may in his discretion either decide the matter, in which case his decision shall be deemed to be the decision of the Committee, or refer it to a Conciliation Commissioner for reference by him in his discretion either to the National Disputes Committee (if any) for decision, or to the Court for settlement.

(7) Section twelve of the Industrial Conciliation and Arbitration Amendment Act 1932 is hereby repealed. Repeal.  
1932, No. 4

**14.** (1) In any award or industrial agreement relating to two or more industrial districts or parts thereof provision may be made for the appointment of a National Disputes Committee consisting of an equal number of representatives (not exceeding three) nominated respectively by the workers' union and by the employer or employers concerned, together with a Chairman, to be appointed as hereinafter provided.

National  
Disputes  
Committees.

(2) The functions of the National Disputes Committee shall be to consider any dispute or difference referred or deemed to be referred to it under the last preceding section, being a dispute or difference arising between the parties to the award or industrial agreement or any of them as to any matter arising out of or connected with the award or agreement but not specifically dealt with therein.

(3) The party desiring the appointment of a National Disputes Committee shall make application therefor to the Registrar of Industrial Unions, and shall notify him of the names and addresses of the persons nominated as members of the Committee by the workers' union or (as the case may be) by the employer or employers.

(4) The Registrar shall forthwith notify the other party or parties to the dispute or difference of the application, and shall require the other party or parties to notify him within seven days of the names and addresses of the persons nominated as members of the Committee by the employer or employers or (as the case may be) by the workers' union.

(5) On receipt of the required nominations the Registrar shall require the nominated members to agree on the appointment of a Chairman.

(6) Where the Registrar is satisfied that there has been a refusal or failure to nominate members of a National Disputes Committee or to appoint a Chairman or to hold a meeting of any such Committee, or undue delay in doing any of those things, the Registrar may appoint the required members of the Committee, or appoint himself or any other person as Chairman of the Committee, or call a meeting of the Committee, as the case may be.

(7) Where a National Disputes Committee is unable to arrive at a decision after consideration of a dispute or difference referred or deemed to be referred to it under the last preceding section, or where the representatives of either party have failed to attend a meeting of which they have received notice, the Chairman may in his discretion either decide the matter, in which case his decision shall be deemed to be the decision of the Committee, or refer it to the Court for settlement.

**Procedure and decisions of Disputes Committees.**

**15.** (1) The procedure of every National Disputes Committee and Local Disputes Committee shall in all respects be absolutely in the discretion of the Committee, and the Committee shall not be bound to proceed with the inquiry into any dispute or difference in any formal manner, or formally to sit as a tribunal, or to hear any addresses or evidence save such as the Committee deems necessary or desirable.

(2) The Committee may at the inquiry hear any evidence that it thinks fit, whether that evidence would be legally admissible in a Court of law or not, and the inquiry shall be either public or private, as the Committee thinks fit.

(3) Subject to the provisions of subsection six of section thirteen and of subsection seven of section fourteen of this Act, the decision of the majority of the members of any such Committee (excluding the Chairman) shall be the decision of the Committee:

Provided that, if the members of the Committee are unable to reach a decision, the decision of the Chairman shall be the decision of the Committee.

(4) The decision of every such Committee shall be given in writing signed by the Chairman and filed with the appropriate Clerk of Awards, and shall be notified by the Chairman forthwith by registered letter to the parties to the dispute or difference.

(5) In all proceedings the decision of any such Committee may be proved by producing a copy of the decision signed by the Chairman or certified by a Clerk of Awards, or any official printed copy of the decision published by the Department of Labour and Employment; and for the purposes of this subsection judicial notice shall be taken of the signature of the Chairman or of the Clerk of Awards.

(6) Subject to the right of appeal hereinafter conferred, the decision of any such Committee in respect of any dispute or difference or in respect of any matter connected with the dispute or difference shall be final and binding on all persons directly affected by the dispute or difference.

(7) No such decision shall be questioned by reason of any omission to notify or hear any person claiming to be concerned or interested in the dispute, or by reason of any matter of form or procedure, or on the ground that due consideration has not been given to any matter that is required by any enactment to be taken into consideration, or on the ground that the decision operates from a date before the day on which it was given, or from a day before the passing of this Act.

(8) Where any decision of any such Committee is inconsistent with the provisions of any award or industrial agreement it shall, to the extent of the inconsistency, be void and of no effect.

(9) Where any decision of any such Committee is of continuing effect it shall continue in force according to its tenor until the current award or industrial agreement binding on the parties is superseded by a subsequent award or industrial agreement.

**Appeals from decisions of Disputes Committees.**

1947, No. 15

**Other provisions as to disputes.**

**Awards, &c., made by Deputy Judges to become binding if not appealed against.**

**16.** (1) Any party to the dispute or difference may appeal to the Court of Arbitration against any decision of a National Disputes Committee or of a Local Disputes Committee within the time and in the manner prescribed for appeals from decisions of Deputy Judges of the Court under section six of the Industrial Conciliation and Arbitration Amendment Act 1947.

(2) In the case of an appeal under this section the Court may deal with the matter by way of rehearing and in all respects as if the matter had not been dealt with by the Committee.

**17.** Nothing in sections thirteen to sixteen of this Act shall be deemed to prevent the making in any award or industrial agreement of any other provision relating to the settlement of disputes or differences.

#### *Appeals from Deputy Judges and Magistrates*

**18.** (1) Section five of the Industrial Conciliation and Arbitration Amendment Act 1947 is hereby amended by repealing subsections two and three, and substituting the following subsections:—

“(2) Where any award, judgment, order, or other instrument is made by a Deputy Judge, it shall be signed by him and filed with the appropriate Clerk of Awards or other officer of the Court, and notice of the making thereof shall forthwith be given to the parties and to such other persons, and in such manner, as may be prescribed by regulations in that behalf made under the principal Act.

“(3) If an appeal is not lodged under the next succeeding section within the time prescribed in that behalf, or if any such appeal is withdrawn or dismissed, the award, judgment, order, or other instrument shall be sealed with the seal of the Court and shall be deemed to have been made by the Court on the day after the expiration of the time so prescribed, and that day shall be deemed to be the date of the award, judgment, order, or other instrument.”

(2) Section six of the Industrial Conciliation and Arbitration Amendment Act 1947 is hereby amended by repealing the proviso to subsection two.

(3) This section shall not apply in respect of awards, judgments, orders, or other instruments made before the passing of this Act.

**19.** (1) Section four of the Industrial Conciliation and Arbitration Amendment Act (No. 2) 1937 is hereby amended by repealing subsection four, and substituting the following subsections:—

“(4) Where any award, judgment, order, or other instrument is made by a Magistrate it shall be signed by him with the addition of the words ‘Acting as a duly appointed delegate of the Court of Arbitration’ or words to that effect, and shall be filed with the appropriate Clerk of Awards or other officer of the Court, and notice of the making thereof shall forthwith be given to the parties and to such other persons, and in such manner, as may be prescribed by regulations in that behalf made under the principal Act.

“(4A) If an appeal is not lodged under the next succeeding subsection within the time prescribed in that behalf, or if any such appeal is withdrawn or dismissed, the award, judgment, order, or other instrument shall be sealed with the seal of the Court and shall be deemed to have been made by the Court on the day after the expiration of the time so prescribed, and that day shall be deemed to be the date of the award, judgment, order, or other instrument.”

(2) Section four of the Industrial Conciliation and Arbitration Amendment Act (No. 2) 1937 is hereby further amended by repealing the proviso to subsection five.

(3) This section shall not apply in respect of awards, judgments, orders, or other instruments made before the passing of this Act.

#### *Strikes and Lockouts*

**20.** Section one hundred and twenty-one of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:—

Awards, &c.,  
made by  
Magistrates  
to become  
binding if  
not appealed  
against.  
1937, No. 10

“(1) In this Act the term ‘strike’ means the act of any number of workers who are or have been in the employment of the same employer or of different employers—

- “(a) In discontinuing that employment, whether wholly or partially; or
- “(b) In breaking their contracts of service; or
- “(c) In refusing or failing after any such discontinuance to resume or return to their employment; or
- “(d) In refusing or failing to accept engagement for any work in which they are usually employed; or
- “(e) In reducing their normal output or their normal rate of work,—

the said act being due to any combination, agreement, common understanding, or concerted action, whether express or implied, made or entered into by any workers—

- “(f) With intent to compel or induce any such employer to agree to terms of employment or comply with any demands made by the said or any other workers; or
- “(g) With intent to cause loss or inconvenience to any such employer in the conduct of his business; or
- “(h) With intent to incite, aid, abet, instigate, or procure any other strike; or
- “(i) With intent to assist workers in the employment of any other employer to compel or induce that employer to agree to terms of employment or comply with any demands made upon him by any workers.”

**21.** The principal Act is hereby amended by repealing section one hundred and twenty-two, and substituting the following section:—

“**122.** In this Act the term ‘lockout’ means the act of an employer—

- “(a) In closing his place of business, or suspending or discontinuing his business or any branch thereof; or
- “(b) In discontinuing the employment of any workers, whether wholly or partially; or

Amended  
definition of  
“lockout”.

- “ (c) In breaking his contracts of service; or
- “ (d) In refusing or failing to engage workers for any work for which he usually employs workers,—

with intent—

- “ (e) To compel or induce any workers to agree to terms of employment or comply with any demands made upon them by the said or any other employer; or
- “ (f) To cause loss or inconvenience to the workers employed by him or to any of them; or
- “ (g) To incite, aid, abet, instigate, or procure any other lockout; or
- “ (h) To assist any other employer to compel or induce any workers to agree to terms of employment or comply with any demands made by him.”

**22.** (1) Section one hundred and twenty-three of the principal Act is hereby amended by omitting from subsection one the words “ten pounds”, and substituting the words “fifty pounds”.

Increasing  
penalties and  
fines relating  
to strikes and  
lockouts.

(2) Section one hundred and twenty-four of the principal Act is hereby amended by omitting from subsection one the words “if a worker, to a penalty not exceeding ten pounds, and if an industrial union, industrial association, trade union, employer, or any person other than a worker, to a penalty not exceeding two hundred pounds”, and substituting the following paragraphs:—

- “ (a) If a worker or other person to whom the following paragraphs hereof do not apply, to a penalty not exceeding fifty pounds:
- “ (b) If an officer, or a member of the committee or executive, of any industrial union, industrial association, or trade union, or of the branch (if any) concerned, to a penalty not exceeding two hundred and fifty pounds:
- “ (c) If an industrial union, industrial association, trade union, or employer, to a penalty not exceeding five hundred pounds.”

(3) Section one hundred and twenty-six of the principal Act is hereby amended as follows:—

- (a) By omitting from subsection one the words “twenty-five pounds”, and substituting the words “seventy-five pounds”:
- (b) By omitting from subsection two the words “five hundred pounds”, and substituting the words “seven hundred and fifty pounds”.

(4) Section one hundred and twenty-six of the principal Act is hereby further amended by omitting from subsection four the words “to a fine not exceeding in the case of a worker twenty-five pounds, or in the case of an industrial union, industrial association, trade union, employer, or any person other than a worker, five hundred pounds”, and substituting the following paragraphs:—

- “(a) If a worker or other person to whom the following paragraphs hereof do not apply, to a fine not exceeding seventy-five pounds:
- “(b) If an officer, or a member of the committee or executive, of any industrial union, industrial association, or trade union, or of the branch (if any) concerned, to a fine not exceeding three hundred and fifty pounds:
- “(c) If an industrial union, industrial association, trade union, or employer, to a fine not exceeding seven hundred and fifty pounds.”

(5) Section eight of the Industrial Conciliation and Arbitration Amendment Act 1947 is hereby amended by omitting from subsection six the words “to a fine not exceeding twenty pounds, and in the case of a continuing offence to a further fine not exceeding five pounds for every day during which the offence continues”, and substituting the words “to imprisonment for a term not exceeding twelve months or to a fine not exceeding one hundred pounds, or to both”.

**23.** (1) If a strike or lockout takes place and any members of an industrial union or of any section of an industrial union are parties to the strike or lockout, the union shall be deemed to have instigated the strike or lockout within the meaning of sections one hundred and twenty-four, one hundred and twenty-six, and one hundred and twenty-seven of the principal Act, unless

the union proves that before the strike or lockout took place a secret ballot was held as required by the rules set out in section eight of the Industrial Conciliation and Arbitration Amendment Act 1947 on the question whether the strike or lockout should take place, or the union proves, with respect to every officer of the union, either that he had no means of knowing of the imminence of the strike or lockout, or that he took every step possible to ensure compliance with the said rules and to prevent the strike or lockout.

1947, No. 15

(2) If a strike takes place and any members of an industrial union or of any section of an industrial union are parties to the strike, then, unless before the strike took place a secret ballot was held as required by the rule set out in subsection one of section eight of the Industrial Conciliation and Arbitration Amendment Act 1947 on the question whether the strike should take place and a majority of the valid votes cast at the ballot was in favour of the strike taking place,—

- (a) Every member of the union who is a party to the strike shall be liable on summary conviction to a fine not exceeding one hundred pounds:
- (b) Every officer, or member of the committee or executive, of the union and of the branch (if any) concerned shall be liable on summary conviction to a fine not exceeding five hundred pounds unless he proves that he had no means of knowing of the imminence of the strike or that he took every step possible to ensure compliance with the said rule and to prevent the strike.

(3) If a lockout takes place and any members of an industrial union or of any section of an industrial union are parties to the lockout, then, unless before the lockout took place a secret ballot was held as required by the rule set out in subsection two of section eight of the Industrial Conciliation and Arbitration Amendment Act 1947 on the question whether the lockout should take place and a majority of the valid votes cast at the ballot was in favour of the lockout taking place,—

- (a) Every member of the union who is a party to the lockout shall be liable on summary conviction to a fine not exceeding one thousand pounds:

- (b) Every officer, or member of the committee or executive, of the union and of the branch (if any) concerned shall be liable on summary conviction to a fine not exceeding five hundred pounds unless he proves that he had no means of knowing of the imminence of the lockout or that he took every step possible to ensure compliance with the said rule and to prevent the lockout.
- (4) Nothing in section one hundred and twenty-three, section one hundred and twenty-four, or section one hundred and twenty-six of the principal Act shall affect any liability under this section, and nothing in this section shall be deemed to render lawful any strike or lockout which would otherwise be unlawful, or to derogate from the provisions of Part V of the principal Act.

Registrar may take secret ballot as to continuance of strike or lockout.

1947, No. 15

**24.** Section eight of the Industrial Conciliation and Arbitration Amendment Act 1947 is hereby amended as follows:—

- (a) By omitting from subsection three the words “proceed to”, and substituting the words “at any time while the strike or lockout continues”;
- (b) By omitting from subsection three the words “on any question relating to the strike or lockout that may be prescribed”, and substituting the words “on the question whether the strike or lockout shall continue or on any other question relating to the strike or lockout that may be determined by the Minister.”

#### *Levies and Subscriptions*

Restrictions as to levies and subscriptions payable by members of unions.

1936, No. 6

**25.** (1) Section one hundred and forty-three of the principal Act (as amended by section twenty-eight of the Industrial Conciliation and Arbitration Amendment Act 1936) is hereby further amended by repealing subsections two and two a, and substituting the following subsections:—

- “(2) No levy shall be payable by any member of any industrial union of workers or of employers or by any member of any society of workers bound by an

agreement under section eight of the Labour Disputes Investigation Act 1913 except in accordance with a resolution passed by a majority of the valid votes cast at a secret ballot of the financial members of the union or society, being either a postal ballot or a ballot conducted in such other manner as may be approved by the Registrar of Industrial Unions.

*See Reprint  
of Statutes,  
Vol. III,  
p. 1021*

"(2A) It shall not be competent for any industrial union of workers, or for any society of workers bound by an agreement under section eight of the Labour Disputes Investigation Act 1913 to provide in its rules for the payment by its members of subscriptions exceeding one shilling a week unless the rules, in so far as they relate to the subscriptions payable by members, have been adopted by a majority of the valid votes cast at a secret ballot of the financial members of the union or society, being either a postal ballot or a ballot conducted in such other manner as may be approved by the Registrar of Industrial Unions.

"(2B) Every person who compels or attempts to directly or indirectly compel any person to pay any sum in contravention of this section shall be liable to a penalty not exceeding one hundred pounds in the case of a union or society or employer and not exceeding five pounds in the case of a worker, recoverable in either case in the same manner as a penalty for a breach of an award; and all the provisions of this Act with respect to the enforcement of an award shall, as far as they are applicable, apply accordingly."

(2) Section twenty-eight of the Industrial Conciliation and Arbitration Amendment Act 1936 is hereby repealed. 1936, No. 6 consequentially amended by repealing subsection two.

#### *Accounts*

**26.** Section one hundred and forty-four of the principal Act is hereby amended by inserting, after subsection one, the following subsection:—

*Unions to  
furnish copy  
of accounts to  
financial  
members on  
demand.*

"(1A) Every such union, association, or society shall furnish any financial member of the union, association, or society on demand, without charge, with a copy of the latest annual statement of its receipts and payments, together with a copy of the auditor's report thereon."

## PART II

### DISPUTED ELECTIONS IN UNIONS

#### Interpretation.

**27.** (1) In this Part of this Act, unless the context otherwise requires,—

“ Election ”, in relation to any office, means an election for the filling of that office; and includes a ballot for removal from that office or for filling a vacancy in that office:

“ Inquiry ” means an inquiry by the Court under this Part of this Act:

“ Irregularity ”, in relation to an election for an office, includes a breach of the rules of a union; and also includes any act, omission, or other means whereby the full and free recording of votes by all persons entitled to record votes, and by no other persons, or a correct ascertainment or declaration of the results of the voting is, or is attempted to be, prevented or hindered:

“ Office ”, in relation to any union or branch of a union, means—

(a) The office or position of a member of the committee of management of the union or branch;

(b) The office or position of a person holding, whether as trustee or otherwise, property of the union or branch, or property in which the union or branch has a beneficial interest; and

(c) Every office or position within the union or branch in relation to which an election is conducted within the union or branch:

“ Person ” includes a corporation sole; and also includes a body of persons, whether incorporated or not:

“ Union ” means an industrial union registered under the principal Act.

(2) For the purposes of this Part of this Act an election shall be deemed to be completed when the result is announced.

**28.** (1) Where not less than ten financial members of a union claim that there has been an irregularity in or in connection with an election in respect of an office in the union or any branch thereof, they may lodge an application for an inquiry by the Court into the matter.

Applications  
for inquiries  
as to  
elections.

(2) An application under this section shall—

(a) Be in writing in accordance with the prescribed form:

(b) Be lodged with the Registrar of Industrial Unions before the completion of the election or within one month after the completion of the election:

(c) Specify the election in respect of which the application is made and the irregularity which is claimed to have occurred, and state the facts relied on in support of the application:

(d) Be accompanied by a statutory declaration by one of the applicants declaring that the facts stated in the application are, to the best of the applicant's knowledge and belief, true.

**29.** (1) Where an application under the last preceding section is lodged with the Registrar,—

Action by  
Registrar.

(a) If he is satisfied—

(i) That there are reasonable grounds for an inquiry into the question whether there has been an irregularity in or in connection with the election which may have affected or may affect the result of the election; and

(ii) That the circumstances of the matter justify an inquiry by the Court under this Part of this Act,—

he shall grant the application and refer the matter to the Court; or

(b) If he is not so satisfied, he shall refuse the application and inform the applicants accordingly.

(2) The Registrar may exercise his powers under the last preceding subsection upon the basis of the matters stated in the application, but he may nevertheless take into account any relevant information coming to his knowledge:

Provided that the Registrar shall not refer the matter to the Court unless he has first given the returning officer or other person who conducted the election a reasonable opportunity to show cause why the application should not be granted.

(3) At any time after the lodging with the Registrar of an application for an inquiry in connection with an election, the Court may authorize the Registrar, by himself or by any person acting on his behalf,—

- (a) To inspect any ballot papers, envelopes, lists, or other documents which have been used in connection with or are relevant to the election;
- (b) To require any person to deliver to him, in accordance with the requirement, any such ballot papers, envelopes, lists, or other documents in the possession or under the control of that person;
- (c) To take possession of any such ballot papers, envelopes, lists, or other documents;
- (d) To retain any ballot papers, envelopes, lists, or other documents delivered to him, or of which he has taken possession, until the completion of the proceedings arising out of the application or until such earlier time as the Court orders.

(4) Before authorizing any action under the last preceding subsection the Court shall, if it is of opinion that, having regard to all the circumstances, any person should be given an opportunity of objecting to the proposed action, give an opportunity to that person to object either personally or by agent or by barrister or solicitor.

(5) Every person commits an offence against this Part of this Act who—

- (a) Refuses or fails to comply with a requirement under this section;
  - (b) Obstructs or hinders the Registrar or any other person in the exercise of his powers under this section.
- (6) An act or decision of the Registrar under this section shall not be subject to appeal to the Court.

Jurisdiction  
and procedure  
of Court.

**30.** (1) Upon the reference of any matter to the Court under paragraph (a) of subsection one of the last preceding section, the inquiry shall be deemed to have been instituted in the Court.

(2) Notwithstanding anything contained in section eighty-three of the principal Act, the jurisdiction of the Court in and in relation to an inquiry or an application for an inquiry and in matters arising out of an inquiry or any such application shall be exercised by a Judge alone.

(3) Subject to the provisions of this Part of this Act, the provisions of the principal Act as to the jurisdiction and procedure of the Court, including in particular section four of the Industrial Conciliation and Arbitration Amendment Act (No. 2) 1937 and section four of the Industrial Conciliation and Arbitration Amendment Act 1947, shall, so far as they are applicable and with the necessary modifications, apply in relation to an inquiry in like manner as they apply to other proceedings before the Court:

1937, No. 10

1947, No. 15

Provided that every order or decision made under this Part of this Act by a Deputy Judge or Magistrate to whom the Court has delegated any of its powers or functions shall take effect as an order of the Court upon being signed by the Deputy Judge or Magistrate and filed with the appropriate Clerk of Awards or other officer of the Court, and shall not be subject to appeal.

**31.** Where an inquiry has been instituted, a Judge shall fix a time and place for conducting the inquiry, and shall give such directions as he thinks necessary to ensure that all persons who are justly entitled to appear or be represented at the inquiry are notified of the time and place so fixed.

Directions as  
to hearing.

**32.** (1) At any time after an inquiry in connection with an election has been instituted, the Court may, if it thinks fit, after giving the parties interested an opportunity to be heard, make one or more of the following orders:—

Interim order.

(a) An order that no further steps be taken in the conduct of the election or in carrying into effect the result of the election:

- (b) An order that a person who has assumed an office or continued to act in an office, or claims to occupy an office, being an office to which the inquiry relates, shall not act in that office:
  - (c) An order that a person who holds, or who last held before the election, an office to which the inquiry relates may act or continue to act in that office:
  - (d) Where it considers that an order under the last preceding paragraph would not be practicable or would be prejudicial to the efficient conduct of the affairs of the union or branch or would be inappropriate having regard to the nature of the inquiry, an order that any person specified in the order may act in an office to which the inquiry relates:
  - (e) An order incidental or supplementary to an order under this subsection:
  - (f) An order varying or discharging an order under this subsection.
- (2) Where the Court orders that a person may act or continue to act in any office, that person shall, while the order continues in force, and notwithstanding anything contained in the rules of the union, be deemed for all purposes to hold the office.
- (3) An order under this section shall continue in force, unless expressed to operate for a shorter period or unless sooner discharged, until the completion of the proceedings in the Court in connection with the election and of all matters ordered (otherwise than under this section) by the Court in those proceedings.

**Procedure at hearing.**

**33.** (1) The Court shall allow to appear or be represented at an inquiry (either personally or by agent or by barrister or solicitor) all persons who apply to the Court for leave to appear or be represented, being persons who appear to the Court to be justly entitled to be heard, and the Court may order any other person so to appear or be represented.

(2) The persons appearing or represented, or ordered to appear or be represented, at an inquiry shall be deemed to be parties to the proceedings.

(3) The Attorney-General may, at any stage of an inquiry, intervene by barrister or solicitor on behalf of the Crown.

34. (1) At an inquiry the Court shall inquire into and determine the question whether any irregularity has occurred in or in connection with the election, and such further questions concerning the conduct and results of the election as the Court thinks necessary.

Functions and  
powers of  
Court.

(2) In the course of conducting an inquiry the Court may make such orders (including an order for the recounting of votes) as the Court thinks necessary for the purposes of the inquiry.

(3) If the Court finds that an irregularity has occurred, the Court may, in its discretion, but subject to subsection four of this section, make one or more of the following orders:—

- (a) An order declaring the election, or any steps taken in or in connection with the election, to be void:
- (b) An order declaring a person purporting to have been elected not to have been elected, and declaring another person to have been elected:
- (c) An order directing a new election to be held, or any step in or in connection with the election (including the submission of nominations) to be taken again, in accordance (subject to any order under the next succeeding paragraph) with the rules of the union:
- (d) An order directing, notwithstanding anything contained in the rules of the union, the taking of such safeguards as the Court thinks necessary against irregularities in or in connection with—
  - (i) Any such new election:
  - (ii) Any such steps so ordered to be taken again:
  - (iii) Any uncompleted steps in the election,—

and, for the purposes of any such order, an order appointing and authorizing a person to act as a returning officer instead of or in

conjunction with the returning officer (if any) acting under the rules of the union in connection with the election, and to exercise such powers as the Court directs:

- (e) An order incidental or supplementary to any order under this section.
- (4) The Court shall not declare an election, or any step taken in or in connection with an election, to be void, or declare that a person was not elected, unless the Court is of opinion that, having regard to the irregularity found, and any circumstances giving rise to a likelihood that similar irregularities may have occurred or may occur, the result of the election may have been affected, or may be affected, by irregularities.

**Enforcement of  
orders.**

**35.** (1) The Court may make such orders as it thinks necessary for the effectual exercise of its powers and functions and the enforcement of its orders under this Part of this Act.

(2) Every person commits an offence against this Part of this Act who refuses or fails to comply with an order of the Court under this Part of this Act or obstructs or hinders the carrying out of any such order.

(3) Nothing in this section shall affect the powers of the Court in relation to the punishment of contempt of Court.

**Validation of  
certain acts,  
&c.**

**36.** (1) Where the Court declares void the election of a person who has, since the election, purported to act in the office to which he purported to have been elected, all acts done by him while so purporting to act which could validly have been done by him if he had been duly elected shall, subject to this section, be valid and effectual for all purposes.

(2) The Court may, if it considers it desirable to do so, declare any such act to have been void, and thereupon that act shall for all purposes be deemed not to have been validly done.

(3) Where an election is held, or any step in or in connection with an election is taken, in pursuance of an order of the Court, that election or step shall not be invalidated by reason only of any departure from the rules of the union involved in compliance with the order of the Court.

37. (1) Where upon an inquiry the Court finds that costs an irregularity has occurred, the Attorney-General may, if he considers the circumstances to justify him in so doing, authorize payment by the Crown to the persons who applied for the inquiry of the whole or a part of their costs and expenses (including expenses of witnesses).

(2) Where, upon an inquiry, the Court does not find that an irregularity has occurred, but certifies that the persons who applied for the inquiry acted reasonably in so applying, the Attorney-General may authorize payment by the Crown to those persons of the whole or a part of their costs and expenses (including expenses of witnesses).

(3) Where the Attorney-General is satisfied that, having regard to the findings of the Court upon an inquiry, it is not just that a person (not being one of the persons who applied for the inquiry) should be required to bear, or to bear in full, any expenses (including expenses of witnesses) incurred by him in connection with the inquiry, the Attorney-General may authorize payment by the Crown of the whole or a part of those expenses.

(4) Where the Court orders—

(a) A new election to be held:

(b) Any step in or in connection with an election to be taken again:

(c) Any safeguards, not provided for in the rules of the union, to be taken in or in connection with any uncompleted steps in an election,—

the Attorney-General may, if he is satisfied that the nature of the irregularity found by the Court to have occurred is such that it would be unreasonable for the union to be required to bear, or to bear in full, the expenses involved in compliance with the order of the Court, authorize payment by the Crown of the whole or a part of those expenses.

(5) All payments authorized by the Attorney-General under this section shall be paid out of moneys to be appropriated by Parliament.

(6) Nothing in this section shall limit the power of the Court to make an order as to the costs and expenses (including expenses of witnesses) of proceedings before the Court in or in connection with an inquiry.

**Ballot papers,  
&c., to be  
preserved.**

**38.** (1) Notwithstanding anything contained in the rules of the union, every union and every officer of a union or branch of a union who is able to do so shall take all reasonable steps to ensure that all ballot papers, envelopes, lists, and other documents used in connection with, or relevant to, an election for an office are preserved and kept at the registered office of the union, or (if the election is for an office in a branch of the union) at the office of that branch, for a period of one year after the completion of the election.

(2) Every union or officer that fails to comply with the foregoing provisions of this section commits an offence against this Part of this Act.

**Registrar to  
conduct  
elections upon  
request.**

**39.** (1) Any union or branch of a union may request the Registrar of Industrial Unions to conduct an election for an office in the union or branch with a view to ensuring that no irregularity occurs in or in connection with the election.

(2) Upon the making of any such request, the Registrar, if he considers that it is practicable for him to do so, and upon being satisfied that the expenses to be incurred in so doing have been or will be paid by the union or branch, may, by himself or by any person designated by him in that behalf, conduct the election, and may, notwithstanding anything contained in the rules of the union, take such action and give such directions as he considers necessary with a view to ensuring that no irregularities occur in or in connection with the election.

(3) Every person commits an offence against this Part of this Act who—

(a) Refuses or fails to comply with a direction of the Registrar or the designated person under this section:

(b) Obstructs or hinders the Registrar or the designated person in the taking of any action under this section or any person in the carrying out of a direction of the Registrar or the designated person under this section.

(4) An election shall not be invalidated by reason of any breach of the rules of the union involved in any act, or in compliance with any direction, of the Registrar or the designated person under this section.

**40.** (1) Every person commits an offence against this Part of this Act who, without lawful authority or excuse, in or in connection with an election for an office,—

Offences in  
connection  
with elections.

- (a) Personates another person to secure a ballot paper to which the personator is not entitled, or personates another person for the purpose of voting;
- (b) Destroys, defaces, alters, takes, or otherwise interferes with a nomination paper, ballot paper, or envelope;
- (c) Puts a ballot paper or other paper into a ballot box or other ballot receptacle, or into the post;
- (d) Delivers a ballot paper or other paper to a person receiving ballot papers for the purposes of the election;
- (e) Records a vote which he is not entitled to record;
- (f) Records more than one vote;
- (g) Forges a nomination paper, ballot paper, or envelope;
- (h) Supplies a ballot paper;
- (i) Obtains, or has in his possession, a ballot paper;
- (j) Destroys, takes, opens, or otherwise interferes with a ballot box.

(2) Every person commits an offence against this Part of this Act who, in or in connection with an election for an office,—

- (a) Threatens, offers, or suggests any violence, punishment, or damage for or on account of, or to induce—
  - (i) Any candidature or withdrawal of candidature;
  - (ii) Any vote or omission to vote;
  - (iii) Any support or opposition to any candidate;
  - (iv) Any promise of any vote, omission, support, or opposition:

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(b) Uses, causes, inflicts, or procures any violence, punishment, or damage for or on account of any such candidature, withdrawal, vote, omission, support, or opposition.

**Penalty for  
offences.**

**41.** Every person who commits an offence against this Part of this Act shall be liable on summary conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding one hundred pounds, or to both.

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