

New Zealand.



ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title and commencement. 2. Interpretation. 3. Application of Act. 4. Notice of dispute with employers to be given to Minister by society of workers. 5. Constitution of Labour Dispute Committee. Election of Chairman. 6. Powers and functions of Chairman. 7. Secret ballot of workers to be taken. 8. Provisions as to voluntary agreements. 9. Unlawful strikes under this Act. 10. Secret ballot as to continuance of strike. 11. Notice of dispute with workers to be given to Minister by employers. 12. Secret ballot of employers to be taken. 13. When lock-out deemed to be unlawful after ballot taken. | <ol style="list-style-type: none"> 14. When lock-out deemed to be unlawful. 15. Penalty for aiding and abetting unlawful strike or lock-out. 16. Applications to Labour Dispute Committees of certain provisions relating to Conciliation Councils or Arbitration Court. 17. Minister may reduce periods of notice, &c. 18. Remuneration of Chairman of Labour Dispute Committee. 19. Inspection of register of societies to which this Act applies. 20. Recovery of penalties. 21. Fines payable to Public Account. 22. Actions to be brought within six months. 23. Powers of Conciliation Commissioner with respect to threatened disputes. 24. Regulations. 25. Expenses of administration. |
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1913, No. 75.

Title. AN ACT to provide for the Investigation of Labour Disputes with a View to the Settlement thereof. [15th December, 1913.]

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

Short Title and commencement.

1. This Act may be cited as the Labour Disputes Investigation Act, 1913, and shall come into operation on the first day of April, nineteen hundred and fourteen.

Interpretation.

2. In this Act, if not inconsistent with the context,—

The terms “strike” and “lock-out” have the same meanings respectively as in the Industrial Conciliation and Arbitration Amendment Act, 1908:

“Minister” means the Minister of Labour:

“Registrar” means the Registrar of Industrial Unions under the Industrial Conciliation and Arbitration Act, 1908:

“Worker” means any person of any age of either sex employed or engaged to do any work for hire or reward, and includes a person who himself does any such work, whether for a lump sum or otherwise, pursuant to a contract which substantially provides only for a performance of that work and for payment in respect thereof.

3. This Act shall apply only to societies of workers (whether incorporated or not, and whether registered under any Act or not) and to the members of any such society who are not, for the time being, bound by any award or industrial agreement under the Industrial Conciliation and Arbitration Act, 1908, and to the employer or employers of any such workers. Application of Act.

4. (1.) In the case of a dispute relating to conditions of employment between a society of workers to which this Act applies or any of the members of such society and the employer or employers of those members, the society may give to the Minister notice in writing specifying the parties to such dispute, and setting out the claims made by the society or the said members in respect thereof. Notice of dispute with employers to be given to Minister by society of workers.

(2.) The Minister shall on the receipt of such notice by writing under his hand—

(a.) Refer the matter to a Conciliation Commissioner appointed under the Industrial Conciliation and Arbitration Amendment Act, 1908, to inquire into and endeavour to effect a settlement of the dispute in respect of which the notice has been given, with power to summon a conference of the parties to such dispute, or of representatives of such parties; or

(b.) Refer the matter for investigation to a Labour Dispute Committee to be appointed as hereinafter provided.

(3.) At any time after a reference as aforesaid to a Conciliation Commissioner the Minister may, if he thinks fit, refer the matter to a Labour Dispute Committee, unless in the meantime a settlement of the dispute has been arrived at.

(4.) The Minister shall notify, in such manner as he thinks fit, such of the parties to the dispute as he thinks necessary of any reference made by him under subsection two or subsection three hereof, and every party to the dispute shall thereby be deemed to have notice of the reference.

5. (1.) A Labour Dispute Committee shall consist of not less than three nor more than seven members, as determined by the Minister. The members of the Committee, other than the Chairman, shall be appointed respectively by the society or societies of workers, party to the dispute, and by the employers, party to the dispute, an equal number being appointed to represent the workers and the employers respectively. Constitution of Labour Dispute Committee.

(2.) The members appointed as hereinbefore provided shall forthwith on their appointment proceed to elect some other person as Chairman. Election of Chairman.

(3.) In the event of the failure of any of the parties to appoint the required number of persons as members of a Labour Dispute Committee within two days after the Minister has notified that the matter of the dispute has been referred to a Labour Dispute Committee, and in the event of the failure of the appointed members of a Labour Dispute Committee to elect a Chairman within two days after their appointment, the Minister shall forthwith appoint such person or persons as he thinks fit to be a member or members of the said Committee, or to be the Chairman of the said Committee, as the case may require.

Powers and
functions
of Chairman.

6. (1.) Forthwith upon the appointment of the Committee the Chairman thereof shall appoint a time and place for the investigation of the dispute, and shall give public notice of the same by advertisement in such newspaper or newspapers circulating in the district as he thinks fit.

(2.) Any person or society of workers or employers affected by the dispute, whether a party thereto or not, shall be entitled to appear before the Committee in such manner as the Chairman may determine.

(3.) The Committee shall investigate the matter of the dispute and endeavour to effect a settlement thereof, and shall, as soon as practicable, report thereon in writing to the Minister. If a settlement of the dispute is not arrived at, the Committee shall include in its report such recommendations for the settlement of the dispute as it thinks fit. If the members of the Committee are equally divided in opinion, the Committee may, in lieu of making such recommendations as aforesaid, submit to the Minister not more than two proposals for the settlement of the dispute. Each such proposal shall be included in the report of the Committee, and shall be signed by the members concurring therein.

(4.) On the receipt of the report the Minister shall cause the recommendations or proposals contained therein to be published in such newspaper or newspapers circulating in the district as he thinks fit.

Secret ballot of
workers to be taken.

7. (1.) If a settlement of the dispute is not arrived at within fourteen days after the delivery of the notice to the Minister pursuant to section four hereof, the Registrar shall, in the prescribed manner, forthwith proceed to conduct or cause to be conducted a secret ballot of those members of the society or societies of workers, party to the dispute, who are directly concerned in the matter of the dispute,—

- (a.) Where recommendations for the settlement of the dispute have not been made by a Labour Dispute Committee, on the question whether a strike shall take place; or
- (b.) Where recommendations for the settlement of the dispute have been made, on the question whether the said recommendations shall be adopted.

(2.) On the application of any society of workers, party to the dispute, or of any member of such society who is entitled to vote at the ballot that scrutineers should be appointed, the Registrar shall appoint not more than two scrutineers for each polling-place, and such scrutineers may be present at such polling-place while the ballot is being conducted.

(3.) If in the opinion of the Registrar the members directly concerned in the matter of the dispute as aforesaid may be classified into two or more divisions, having regard to the diversity of their interests, he may, on the application of any of such members, take a separate ballot for each of those divisions in lieu of taking a ballot of all the members directly concerned in the dispute as provided in subsection one hereof.

(4.) The decision of the Registrar as to whether a member of a society, party to the dispute, is or is not directly concerned in the matter of the dispute shall be final and conclusive.

(5.) If any person interrupts or interferes with the conduct of a secret ballot under this Act, he shall be liable to a fine not exceeding ten pounds.

(6.) The Registrar shall, as soon as practicable, ascertain the result of the ballot, and shall forthwith notify the result by notice published in such newspaper or newspapers circulating in the district as he thinks fit.

8. (1.) Subject to the provisions of this section, where an agreement (other than an industrial agreement under the Industrial Conciliation and Arbitration Act, 1908) relating to the terms of employment of any workers is entered into by or on behalf of those workers and by or on behalf of their employers, such agreement may be filed by any party thereto with the nearest Clerk of Awards.

Provisions as to
voluntary
agreements.

(2.) Every such agreement shall specify the parties upon whom the same shall be binding, and the time during which it shall remain in force, and shall also provide for the manner in which any question incidental to or arising out of the interpretation of the agreement shall be determined.

(3.) Any person who commits a breach of such agreement shall be liable in the same manner and in the same cases as if he had committed a breach of an industrial agreement under the Industrial Conciliation and Arbitration Act, 1908, and proceedings may be taken in the Magistrate's Court in respect of its breach at the suit of an Inspector of Awards, or of any society of workers party to the agreement, or of any employer or worker who is party to such agreement:

Provided that there shall be no appeal on any matter of fact from the judgment of the Magistrate's Court in proceedings under this section.

(4.) Where a breach of an agreement under this section is committed by a society of workers or employers, party to such agreement, the said society and the members thereof respectively shall be liable in the same manner as if the society were an industrial union registered under the Industrial Conciliation and Arbitration Act, 1908, and as if the agreement were an industrial agreement under that Act.

9. If the members or any of the members of a society of workers to which this Act applies take part in a strike, whether arising out of a dispute with their employers relating to the conditions of their employment or not,—

Unlawful strikes
under this Act.

(a.) Without the notice referred to in section four hereof having been given and before the expiration of seven days after the publication as aforesaid of the result of a secret ballot under section seven hereof; or

(b.) At any time before the expiration of the currency of an agreement under the last preceding section entered into by or on behalf of those workers and filed as provided by that section,

every such member shall be deemed to be party to an unlawful strike, and shall be liable to a penalty not exceeding ten pounds.

10. (1.) At any time during the continuance of a strike which is not an unlawful strike the Registrar may, on the requisition of not less than five per centum of those workers who are directly concerned

Secret ballot as to
continuance of
strike.

in the strike (being members of a society or societies of workers) proceed to conduct or cause to be conducted in the prescribed manner a secret ballot of all such members directly concerned in the strike on any question relating to the strike that may be proposed by the requisition.

(2.) The provisions of section seven hereof, relating to the conduct of ballots, shall, so far as applicable, extend and apply to ballots under this section.

Notice of dispute with workers to be given to Minister by employers.

11. In the case of a dispute relating to conditions of employment between any employer or employers and a society of workers to which this Act applies, or any of the members of such society who are employed by such employer or employers, any employer may give to the Minister notice in writing specifying the parties to such dispute and setting out the claims of the employer or employers in respect thereof, and thereupon the provisions of sections four, five, and six hereof shall, *mutatis mutandis*, extend and apply.

Secret ballot of employers to be taken.

12. (1.) If a settlement of the dispute is not arrived at within fourteen days after the delivery of a notice to the Minister pursuant to the last preceding section, the Minister shall, whenever in his opinion the employers who are directly concerned in the matter of the dispute consist of persons whose votes can be taken within a reasonable space of time, direct the Registrar to cause a secret ballot of such employers to be conducted in the prescribed manner,—

(a.) Where recommendations for the settlement of the dispute have not been made by a Labour Dispute Committee, on the question whether a lock-out shall take place; or

(b.) Where recommendations for the settlement of the dispute have been made, on the question whether the said recommendations shall be adopted.

(2.) On the application of any employer who is entitled to vote at the ballot that scrutineers should be appointed, the Registrar shall appoint not more than two scrutineers for each polling-place, and such scrutineers may be present at such polling-place while the ballot is being conducted.

(3.) Where an employer, party to a dispute, is a registered company or other body corporate, the shareholders or members thereof for the time being resident in New Zealand shall severally be deemed to be employers directly concerned in the matter of the dispute, and shall be entitled accordingly to vote at a ballot under this section.

(4.) The decision of the Registrar as to whether any employer, party to the dispute, is or is not directly concerned in the matter of the dispute shall be final and conclusive.

(5.) If any person interrupts or interferes with the conduct of a secret ballot under this section, he shall be liable to a fine not exceeding ten pounds.

(6.) The Registrar shall, as soon as practicable, ascertain the result of the ballot, and shall forthwith notify the result by notice published in such newspaper or newspapers circulating in the district as he thinks fit.

When lock-out deemed to be unlawful after ballot taken.

13. Where a ballot of employers directly concerned in the matter of the dispute has been taken under the last preceding section,

then if any such employer takes part in a lock-out of any workers to whom this Act applies—

- (a.) Without the notice referred to in section eleven hereof having been given and before the expiration of seven days after the publication as aforesaid of the result of a secret ballot under the last preceding section ; or
- (b.) At any time before the expiration of the currency of an agreement under section eight hereof entered into by or on behalf of that employer and filed as provided by that section,

he shall be deemed to be party to an unlawful lock-out, and shall be liable to a penalty not exceeding five hundred pounds.

14. Where a ballot of the employers directly concerned in the matter of the dispute has not been taken as hereinbefore provided, then if an employer takes part in a lock-out of any workers to whom this Act applies—

When lock-out
deemed to be
unlawful.

- (a.) Without giving the notice referred to in the last preceding section, and—

- (i.) (Where recommendations for the settlement of the dispute have been made by a Labour Dispute Committee) before the expiration of fourteen days' notice of intention to lock out given to such workers after the publication of such recommendations ; or

- (ii.) (Where recommendations for the settlement of the dispute have not been made by a Labour Dispute Committee) before the expiration of fourteen days' notice of intention to lock out given to such workers after the expiration of fourteen days from the date of the original notice to the Minister ; or

- (b.) At any time before the expiration of the currency of an agreement under section eight hereof, entered into by him or on his behalf, and filed as provided in that section,

he shall be deemed to be party to an unlawful lock-out, and shall be liable to a penalty not exceeding five hundred pounds.

15. (1.) Every person who incites, instigates, aids, or abets an unlawful strike or lock-out under this Act, or the continuance of any such strike or lock-out, or who incites, instigates, or assists any person to become a party to any such strike or lock-out, is liable, if a worker, or an officer of a society of workers, to a penalty not exceeding ten pounds ; if an employer or any person other than a worker or an officer as aforesaid, to a penalty not exceeding five hundred pounds ; and if an industrial union or industrial association under the Industrial Conciliation and Arbitration Act, 1908, or any other society whatsoever, to a penalty not exceeding one thousand pounds, or the sum of ten pounds for every member of such union or society or for every member of the several industrial unions comprised in such industrial association (whichever amount is the less).

Penalty for aiding
and abetting
unlawful strike or
lock-out.

(2.) When a strike or lock-out takes place and a majority of the members of any society of workers or employers are at any time parties to the strike or lock-out, the said society shall be deemed to have instigated the strike or lock-out.

(3.) If any officer of a society of workers incites or instigates an unlawful strike under this Act, the society shall unless and until the contrary is proved be deemed to have incited or instigated the said strike.

(4.) No proceedings shall be commenced or continued under this Act against any worker or employer who is a party to a strike or lock-out for taking part in such strike or lock-out if judgment has already been obtained under this section in respect of the same strike or lock-out against any industrial union of which the worker or employer is a member, or against any industrial association comprising such industrial union, or against any other society of which the worker or employer is a member, and such judgment has been satisfied by payment in money of the whole penalty.

Applications to
Labour Dispute
Committees of
certain provisions
relating to
Conciliation
Councils or
Arbitration Court.

16. The provisions of section one hundred and eight and of sections one hundred and fourteen to one hundred and eighteen of the Industrial Conciliation and Arbitration Act, 1908, and of section thirty-five of the Industrial Conciliation and Arbitration Amendment Act, 1908, shall, *mutatis mutandis*, extend and apply to disputes under this Act, or to a Labour Dispute Committee, or to the Chairman thereof, as the case may require, and to the conduct of proceedings before such committee :

Provided that if the other members of the Committee so agree the Chairman of a Labour Dispute Committee (not being a Conciliation Commissioner under the Industrial Conciliation and Arbitration Amendment Act, 1908) shall have a casting-vote but not a deliberative vote in the determination of any questions before the committee.

Minister may
reduce periods of
notice, &c.

17. Notwithstanding anything in the foregoing provisions of this Act, the Minister may in any particular case, having regard to the special circumstances and to the interests of all the parties concerned, reduce any period of notice to be given under this Act or the time within which anything may be done thereunder, and may also, if he thinks fit, in any such case dispense with the publication of the recommendations of a Labour Dispute Committee or of the result of any ballot.

Remuneration of
Chairman of
Labour Dispute
Committee.

18. (1.) The Chairman of a Labour Dispute Committee under this Act shall be entitled to receive out of the Consolidated Fund such fees as are prescribed by regulations.

(2.) Except as hereinbefore provided, no fee or other remuneration shall be payable out of public moneys in respect of the services of any member of a Labour Dispute Committee.

Inspection of
register of societies
to which this Act
applies.

19. (1.) Where in any dispute under this Act or in any agreement entered into and filed pursuant to section eight hereof any of the parties to such dispute or agreement is a society of workers or employers, whether registered under any Act or not, the register of members of that society shall be open to inspection by the Registrar or an Inspector of Awards at all reasonable hours.

(2.) Any person having the custody or control of the register of members of any such society who refuses to permit the Registrar or the Inspector to inspect the register as aforesaid and take copies thereof or extracts therefrom is liable to a fine of ten pounds.

20. Except as otherwise provided in section eight hereof, every penalty under this Act shall be recoverable in the Magistrate's Court at the suit of an Inspector of Awards in the same manner as a penalty for a breach of an industrial agreement under the Industrial Conciliation and Arbitration Amendment Act, 1908, and not otherwise, and all the provisions of the said Act with respect to the enforcement of an industrial agreement (including the provisions as to the enforcement of judgments) shall, so far as applicable, apply accordingly:

Recovery of penalties.

Provided that there shall be no appeal on any matter of fact from the judgment of the Magistrate's Court in proceedings under this section.

21. Every penalty recovered under this Act shall be recovered to the use of the Crown, and the amount thereof shall be forthwith paid by the Clerk of the Court into the Public Account.

Fines payable to Public Account.

22. No action shall be commenced for the recovery of any penalty under this Act save within six months after the cause of action has arisen.

Actions to be brought within six months.

23. A Conciliation Commissioner may at any time, if he thinks fit, whenever he has reasonable grounds for believing that a labour dispute to which this Act would apply exists or is threatened in any district within which he exercises jurisdiction, take such steps as he deems necessary, whether by way of recommending a conference of the parties or otherwise, with intent to procure a voluntary settlement of the dispute.

Powers of Conciliation Commissioner with respect to threatened disputes.

24. (1.) The Governor may from time to time, by Order in Council gazetted, make such regulations as he deems necessary or expedient for the purpose of effecting a settlement of disputes to which this Act relates, and otherwise of giving full effect to the provisions of this Act.

Regulations.

(2.) All such regulations shall come into force on the date of the gazetting thereof, and shall, within fourteen days after such gazetting, be laid before Parliament if in session, or if not in session, then within fourteen days after the beginning of the next session.

25. All charges and expenses incurred by the Government in connection with the administration of this Act shall be defrayed out of such annual appropriations as from time to time are made for that purpose by Parliament.

Expenses of administration.