



ANALYSIS

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1953, No. 119

AN ACT to make provision in respect of the waterfront industry. Title.
[27 November 1953]

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

1. (1) This Act may be cited as the Waterfront Industry Act 1953. Short Title and commencement.

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

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

“Association” means an industrial association of waterside workers registered under the Industrial Conciliation and Arbitration Act 1925: See Reprint of Statutes, Vol. III, p. 939

“Commission” means the Waterfront Industry Commission constituted under this Act:

“Discontinuance of employment” includes the refusal by any employer to engage workers for any work for which he usually employs waterside workers, and the refusal of any workers to accept engagement for any waterside work in which they are usually employed, and any method, act, or omission in the course of employment that has or is likely to have the effect of interrupting or impeding waterside work:

“General Manager” means the General Manager of the Commission appointed under this Act:

“Lockout” has the same meaning as in the Industrial Conciliation and Arbitration Act 1925:

“Minister” means the Minister of Labour:

“National Conciliation Committee” means a National Conciliation Committee appointed under this Act:

“National Amenities Committee” means the National Amenities Committee appointed under this Act:

“Permanent employment” means employment under a principal order under which a worker is entitled to receive his full week’s wages at the ordinary time rate of pay, whether or not work is provided, subject to any deductions for time lost that may be provided for in the order:

“Port Conciliation Committee” means a Port Conciliation Committee appointed under this Act:

“Port Amenities Committee” means a Port Amenities Committee appointed under this Act:

“Principal order” means an order made by the Tribunal under section eleven of this Act:

“Strike” has the same meaning as in the Industrial Conciliation and Arbitration Act 1925:

“Tribunal” means the Waterfront Industry Tribunal constituted under this Act:

“Union” means an industrial union of waterside workers registered under the Industrial Conciliation and Arbitration Act 1925:

“Waterside work” means the loading and unloading of ships, barges, lighters, and other vessels; and, in relation to any port where the Harbour Board acts as wharfinger, includes the work of receiving and delivering cargo customarily performed by waterside workers at that port.

(2) Every union and association shall be deemed to be a body corporate for the purposes of this Act.

Commission and Tribunal

3. (1) For the purposes of this Act there shall be a Commission, to be called the Waterfront Industry Commission.

(2) The Commission shall consist of one Commissioner to be appointed by the Governor-General on the recommendation of the Minister.

See Reprint
of Statutes,
Vol. III, p. 939

Waterfront
Industry
Commission.

(3) The Commission shall be a corporation sole with perpetual succession and a seal of office, and shall be capable of holding real and personal property, and of suing and being sued, and of doing and suffering all such other acts and things as corporations may lawfully do and suffer.

(4) The Commission constituted under this Act is hereby declared to be the same Commission as the Waterfront Industry Commission constituted under the Waterfront Industry Emergency Regulations 1946 as amended by the Waterfront Industry Emergency Regulations 1946, Amendment No. 10.

Serial Nos.
1946/102;
1951/288

4. (1) For the purposes of this Act there shall be a Tribunal, to be called the Waterfront Industry Tribunal.

Waterfront
Industry
Tribunal.

(2) The Tribunal shall consist of three members to be appointed by the Governor-General on the recommendation of the Minister. One member shall be appointed as Chairman of the Tribunal.

(3) No person other than a barrister or solicitor of not less than seven years' practice of the Supreme Court shall be appointed to be the Chairman of the Tribunal.

(4) The powers of the Tribunal shall not be affected by any vacancy in the membership thereof.

(5) For the purpose of carrying out its functions under this Act the Tribunal shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to this Act and to any regulations made under this Act, the provisions of that Act shall apply accordingly.

See Reprint
of Statutes,
Vol. I, p. 1036

(6) The Chairman of the Tribunal, or any other member purporting to act by direction or with the authority of the Chairman, or the Secretary of the Tribunal purporting to act by direction or with the authority of the Chairman, may (on application by any party or otherwise) issue summonses requiring the attendance of witnesses before the Tribunal, or the production of documents, or may do any other act preliminary or incidental to the hearing of any application or other matter by the Tribunal.

(7) The Tribunal constituted under this Act is hereby declared to be the same Tribunal as the Waterfront Industry Tribunal constituted under the Waterfront

Serial Nos.
1946/102;
1951/288

Industry Emergency Regulations 1946 as amended by the Waterfront Industry Emergency Regulations 1946, Amendment No. 10.

Term of office.

5. (1) Except as otherwise provided in this Act, every Commissioner shall be appointed for a term of five years and every member of the Tribunal shall be appointed for a term of three years, and every Commissioner and member may from time to time be reappointed.

(2) Notwithstanding anything to the contrary in this Act, every Commissioner and every member of the Tribunal, unless he sooner vacates his office otherwise than by effluxion of time, shall continue to hold office until his successor comes into office.

(3) The Commissioner or any member of the Tribunal may be at any time removed from office by the Governor-General for inefficiency, disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Minister.

(4) The person who at the commencement of this Act holds office as the Commissioner shall be deemed to have been appointed to that office under this Act for a term of five years commencing with the date of the commencement of this Act.

(5) The persons who at the commencement of this Act hold office as the Chairman or a member of the Tribunal shall be deemed to have been appointed to those offices respectively under this Act for a term of three years commencing with the date of the commencement of this Act.

Extraordinary vacancies.

6. (1) If the Commissioner or the Chairman or any other member of the Tribunal dies, or resigns, or is removed from office, his office shall become vacant, and the vacancy shall be deemed to be an extraordinary vacancy.

(2) In the case of an extraordinary vacancy, the Governor-General may appoint some other fit person to be the Commissioner or the Chairman or a member of the Tribunal, as the case may be, for the residue of the term for which the person vacating office was appointed. Every such appointment shall be made in the same manner as the appointment of the person vacating office.

7. (1) In any case in which the Governor-General is satisfied that the Commissioner or any member of the Tribunal is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Governor-General may, in the manner in which the Commissioner or member was appointed, appoint a fit person to act as deputy for the Commissioner or member during his incapacity. Deputies.

(2) Every such deputy shall, while he acts as such, be deemed to be the Commissioner or a member of the Tribunal, as the case may be, and (if he is the deputy of the Chairman) to be the Chairman of the Tribunal.

(3) No such appointment of a deputy and no acts done by a deputy as such, or by the Commissioner or the Tribunal while a deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for the appointment of the deputy had not arisen or had ceased.

Functions and Powers of Commission

8. The functions of the Commission shall be—

Functions of
Commission.

(a) To carry out all administrative work in connection with the engagement and employment of, and the payment of wages to, waterside workers, other than those who are, with the prior approval of the Tribunal, directly engaged by any employer of waterside labour:

Provided that any exemption in force immediately before the commencement of this Act shall continue until revoked by the Tribunal:

(b) To carry out all administrative work in connection with the payment of guaranteed minimum payments to waterside workers, the payment for holidays, the administration of any co-operative contracting system or any other system for payment by results, except where exemption from this paragraph is granted to an employer by the Tribunal:

Provided that any exemption in force immediately before the commencement of this Act shall continue until revoked by the Tribunal:

- (c) To provide amenities for waterside workers as from time to time authorized by the National Amenities Committee, and to furnish, equip, operate, and manage amenities for waterside workers (including waiting rooms, restaurants, canteens, and first aid rooms):
- (d) To administer and enforce the rules determining the priority of the allocation of labour and the bureau rules from time to time made by Port Conciliation Committees:
- (e) To obtain, record, classify, and compile such information and particulars as the Commission thinks fit in relation to waterside work and the waterfront industry.

**Powers of
Commission.**

9. (1) The Commission may from time to time do all such things as it deems necessary for the purpose of effectively performing its functions.

(2) Without limiting the general power conferred by subsection one of this section, it is hereby declared that in the exercise of that power the Commission may from time to time do all or any of the following things:

- (a) Impose levies on the owners, agents, or masters of ships, and on any other employers of waterside workers (having regard to any exemption from paragraph (a) or paragraph (b) of section eight of this Act), for carrying out the functions of the Commission, and, in particular, for any of the following purposes:
 - (i) Providing and operating labour engagement bureaux and central pay offices:
 - (ii) Providing for guaranteed minimum payments to waterside workers, and other payments to waterside workers not directly chargeable to individual employers:
 - (iii) Providing for pay for holidays allowed to waterside workers (whether under the Annual Holidays Act 1944 or otherwise):
 - (iv) Providing and operating amenities for waterside workers (including waiting rooms, restaurants, canteens, and first aid rooms and equipment):

(v) Providing for the remuneration and travelling allowances and expenses of the members (other than the Chairmen) of Port Conciliation Committees and the National and Port Amenities Committees:

Provided that, before making any variation in any levy imposed under this paragraph, the Commission shall supply to the New Zealand Port Employers' Association Incorporated and the Harbours Association of New Zealand a statement of the Commission's estimated income and expenditure for the then current financial year:

- (b) Enter into such contracts as it thinks fit for the purpose of exercising its powers and performing its functions:
- (c) Recover from the owner, agent, or master of any ship money expended on wages or for any other purpose in connection with waterside work:
- (d) Recover from money earned under any co-operative contracting system, or any other system of payment by results, the cost of administration of that system:
- (e) By order in writing require any person to furnish at any time or from time to time such returns, statements, statistics, or other information relating to matters coming within the jurisdiction of the Commission as it deems necessary; and require that any such information be verified by statutory declaration; and examine and make copies of or extracts from any records from which any such information is obtained:
- (f) Purchase, take on lease, or otherwise acquire any land or interest in land, and erect, improve, alter, extend, equip, furnish, repair, and maintain buildings on any such land, for the purpose of carrying out the functions of the Commission:
- (g) Subject to the approval of the Tribunal, purchase houses for the use of its officers, and let houses to its officers at such rent and on such terms as it thinks fit, and make advances

- out of its funds to its officers on such terms and conditions as it thinks fit to enable them to purchase houses for their own use:
- (h) Sell, exchange, transfer, lease, hire, or otherwise dispose of any real or personal property belonging to the Commission:
 - (i) Invest any money belonging to the Commission in such securities (being securities for the time being authorized by statute for the investment of trust moneys) in such manner and for such periods as the Commission thinks fit:
 - (j) Make grants of money from the Commission's funds to sick benefit societies, hospital comforts funds, sports clubs, and other societies and funds established for the benefit of waterside workers or other persons employed in connection with work on the waterfront (including employees of the Commission):
 - (k) Make any order in respect of any matter coming within its jurisdiction.
- (3) All purchases of houses for the use of its officers made by the Commission before the commencement of this Act are hereby validated and declared to have been lawfully made.

Functions and Powers of Tribunal

Functions of
Tribunal.

10. (1) The functions of the Tribunal shall be—
- (a) To make principal orders or other orders as hereinafter provided:
 - (b) To decide any disputes that arise in relation to waterside work, and to take such action as it thinks fit to prevent or settle disputes:
 - (c) To determine appeals from any decisions of Port Conciliation Committees that are subject to appeal:
 - (d) To control and direct the activities of Port Conciliation Committees:
 - (e) To determine appeals from any decisions of the National Amenities Committee:
 - (f) To investigate any matter which in its opinion is likely to cause delays to waterside work:
 - (g) To determine appeals from any decisions or orders of the Commission imposing levies or charges under subsection two of section nine of this Act.

(2) In exercising its powers and functions the Tribunal shall have regard to—

- (a) The necessity for promoting the efficiency of waterside work:
- (b) The desirability of ensuring the full and proper utilization of waterside labour for the purpose of facilitating the rapid and economical turn round of ships and the speedy transit of goods through ports:
- (c) The latest general order increasing or reducing rates of remuneration or standard wage pronouncement made by the Court of Arbitration:
- (d) The rates of remuneration, direct and indirect, and the working conditions generally prevailing in industry:
- (e) Such other considerations as the Court of Arbitration is for the time being required to take into account in making or amending an award under the Industrial Conciliation and Arbitration Act 1925:
- (f) Such other considerations as the Tribunal deems relevant.

See Reprint
of Statutes,
Vol. III, p. 939

Principal Orders

11. (1) Subject to the provisions of this Act, the Tribunal may from time to time, of its own motion or on application as hereinafter provided, make principal orders, not inconsistent with this Act or any other enactment, for all or any of the following purposes:

Principal
orders as to
pay and
conditions
of work.

- (a) Prescribing the conditions upon or subject to which any persons may be employed for waterside work:
- (b) Prescribing the terms of any such employment (whether as to remuneration or otherwise), including, if the Tribunal thinks fit, provision for holidays, and provision for a guaranteed minimum payment, and provision for fixing remuneration on a tonnage or unit or other basis, whether under a co-operative contracting system or under any other system of payment by results, or otherwise.

(2) No principal order shall apply with respect to any work of a kind which immediately before the commencement of this Act was not customarily performed by waterside workers.

(3) Every principal order shall specify the currency of the order, being any specified period not exceeding three years from the date on which the order is expressed to come into force or, if the order fixes different dates on which different provisions are to come into force, then from the earliest of those dates.

(4) Notwithstanding the expiration of the currency of a principal order, the order shall continue in force until it is replaced by a subsequent principal order or is revoked by the Tribunal or is suspended or cancelled under this or any other Act.

(5) No principal order shall be deemed to be invalid on the ground that it delegates to or confers on the Commission or any other person any discretionary authority.

Power to
amend
principal
orders.

12. Subject to the provisions of this Act, the Tribunal may from time to time during the currency of any principal order, either of its own motion or on an application as hereinafter provided, make orders for all or any of the following purposes:

- (a) To amend the provisions of the principal order for the purpose of remedying any defect therein or giving fuller effect thereto:
- (b) To amend the provisions of the principal order for such purpose and in such manner as the Tribunal is satisfied that all the parties to the application have agreed upon:
- (c) To interpret the provisions of the principal order or of any order amending the principal order:
- (d) To amend the provisions of the principal order for the purpose of applying, subject to such variations as may be determined by the Tribunal, any general order increasing or reducing rates of remuneration made by the Court of Arbitration.

Power to
consolidate
orders.

13. Notwithstanding anything to the contrary in this Act, the Tribunal may make principal orders for consolidating any existing orders, and may include therein any matters in respect of which principal orders may be made under section eleven of this Act:

Provided that where a consolidating order is so made all limitations of time applicable under this Act to the making of any order or to any matter ancillary thereto shall apply to every provision of any such consolidating order in all respects as if the consolidating order had not been made.

14. (1) Any union or association or the New Zealand Port Employers' Association Incorporated or any employer of waterside workers may at any time apply to the Tribunal in the prescribed form for a principal order or other order.

Application to
Tribunal
for order.

(2) Every application under this section relating to one port shall be lodged with the Chairman of the Port Conciliation Committee for the port:

Provided that if no Port Conciliation Committee has been appointed for the port the application shall be lodged with the Tribunal.

(3) Every application under this section relating to two or more ports shall be lodged with the Tribunal, and the Tribunal shall refer every such application to a National Conciliation Committee.

(4) Every application under this section shall be deemed to be made on the day on which it is lodged with the Chairman of the Port Conciliation Committee or with the Tribunal as aforesaid.

(5) Except as provided in section thirteen of this Act, no application for a principal order to replace an existing principal order shall be made earlier than two months before the expiration of the currency of the existing order.

(6) An application under this section may be made jointly by any two or more bodies or persons each of which is a union or association or an employer of waterside workers.

(7) In the case of any application made by any union or association or in the case of a joint application as aforesaid, the New Zealand Port Employers' Association Incorporated and every employer in respect of whose employees or any of them an order is applied for shall be a respondent.

(8) In the case of any application made by the New Zealand Port Employers' Association Incorporated or by any employer every union or association in respect of whose members or any of them an order is applied for shall be a respondent.

(9) Every application under this section shall name the applicant or applicants and the respondent or respondents, and shall contain a detailed statement of the claims made by the applicant or applicants.

(10) A copy of every application under this section shall, as soon as it is made, be sent by the applicant or applicants to the respondent or to each respondent if there are two or more.

Statement by
respondent.

15. (1) At any time within one month after a copy of any application is sent to any respondent under section fourteen of this Act, or within such further time as the Tribunal may in any case allow, the respondent may lodge with the Chairman of the Port Conciliation Committee or, as the case may be, with the Tribunal, a statement in detail admitting such of the claims in the application as the respondent desires to admit, or making a counter-proposal with respect to all or any of the claims of the applicants.

(2) A copy of every such statement shall at the same time be sent by the respondent to the applicant or to each applicant if there are two or more.

Amendment of
applications
and statements.

16. Subject to the provisions of any rules or regulations made under this Act, the person making any application or statement under this Act may amend it at any time before the final determination of the application by the Tribunal.

Orders by
consent.

17. Where all the parties to any application for a principal order or other order agree in writing upon all or any of the terms to be incorporated in the order, the Tribunal may, if it thinks fit, in making its order, incorporate in the order all or any of the terms so agreed upon without making inquiry into the matters to which those terms relate, except so far as may be necessary to ensure that the order is in accordance with this Act.

Conciliation
proceedings.

18. (1) When an application is lodged with the Chairman of a Port Conciliation Committee or referred by the Tribunal to a National Conciliation Committee,

it shall be the duty of the Committee to assist the parties to reach agreement on the subject matter of the application.

(2) The Chairman of the Committee shall appoint a day and place for the conciliation proceedings, and shall cite the parties to the application to attend.

(3) Subject to the provisions of this Act and of any regulations made under this Act, and to the control and direction of the Tribunal, the conciliation proceedings shall be conducted in such manner as the Committee thinks fit.

(4) At the conclusion of the proceedings or when the Committee is satisfied that further progress is unlikely, the Committee shall report in writing to the Tribunal the result of the proceedings and shall forward with the report a statement signed by the parties and by the Chairman of the matters upon which agreement has been reached.

19. (1) At any time after the respondent's statement in reply to any application has been lodged with the Chairman of the Port Conciliation Committee or, as the case may be, with the Tribunal, or after the expiration of the time allowed for lodging the respondent's statement, the Tribunal shall appoint a day and place for the hearing of the application, and shall notify the applicant and the respondent of the day and place so appointed.

Hearing and adjournments.

(2) Except with the consent of the respondent, the day so appointed shall not be earlier than one month after the date of the making of the application.

(3) The Tribunal may adjourn the hearing of any application from time to time and from place to place.

Appeals to Tribunal

20. (1) Any employer or any organization of employers or workers affected by any decision or order to which this section relates may, within fourteen days after the date of the decision or order, appeal against it to the Tribunal by lodging with the Tribunal a notice of appeal in the prescribed form.

Appeals to Tribunal.

(2) This section relates to—

(a) Decisions of Port Conciliation Committees and Combined Committees, except—

(i) Decisions on disputes in respect of appeals against the removal of workers' names from the bureau register:

(ii) Decisions on disputes in respect of dirt money or head room:

(iii) Decisions on disputes on questions of fact:

(iv) Decisions on any other dispute which the members of the Committee unanimously agree is of local significance only:

(b) Decisions of the National Amenities Committee:

(c) Decisions or orders of the Commission imposing levies or charges under subsection two of section nine of this Act.

(3) On the hearing of any appeal the Tribunal may confirm, modify, or reverse the decision or order appealed against, or make such other decision or issue such direction in connection therewith as it thinks fit.

Procedure of Tribunal

Hearings in public.

21. All applications and appeals to the Tribunal shall be heard in public, unless the Tribunal in any particular case, due regard being had to the interests of all persons concerned and to the public interest, considers that the hearing or any part of it should take place in private.

Advocates.

22. (1) At the hearing by the Tribunal of any application or appeal every applicant or appellant and every respondent and, with the consent of the Tribunal, any union or association, or employer of waterside workers, that is neither an applicant nor an appellant nor a respondent may be represented by an advocate or advocates.

(2) No person shall be an advocate unless he is an officer or servant of a union or association, or of an employer of waterside workers, or of an organization of employers of waterside workers, and is not a barrister or solicitor:

Provided that a party to any proceedings may be represented by a barrister or solicitor on an application for an order to interpret the provisions of a principal order, or with the consent of all the parties in any other case.

23. (1) Subject to the provisions of this Act and of any regulations made under this Act, the Tribunal may from time to time make rules for regulating its procedure. Rules of
procedure.

(2) Subject to the provisions of this Act and of any rules or regulations made under this Act, the Tribunal may regulate its procedure in such manner as it thinks fit.

24. (1) The presence of the Chairman and of at least one other member shall be necessary to constitute a sitting of the Tribunal. Quorum and
decision of
Tribunal.

(2) The decision of a majority of the members present at a sitting of the Tribunal shall be the decision of the Tribunal. If the members present are equally divided in opinion, the decision of the Chairman shall be the decision of the Tribunal.

(3) Every order and decision made by the Tribunal shall be signed by the Chairman and at least one other member of the Tribunal.

Effect of Orders and Decisions of Tribunal

25. (1) Every order and decision made by the Tribunal under this Act shall be binding on all persons whom the order or decision purports to affect, whether or not any such person, in the case of an employer, is a member of the New Zealand Port Employers' Association Incorporated or, in the case of a worker, is a member of any union. Effect of
orders and
decisions.

(2) The Tribunal may, for the purpose of any of its decisions, give all such directions as are reasonably proper for carrying the decision into effect.

26. (1) Any order or provision of an order and any direction or decision may be made or given by the Tribunal so as to come into force on a day to be specified therein in that behalf, being either before or after the date thereof, but, in the case of a principal order, not earlier than the date of the making of the application for the order, and, in the case of a principal order Date of
commencement
of orders and
provisions.

replacing an existing principal order (except as provided in section thirteen of this Act), not earlier than the expiration of the currency of the existing order.

(2) Every order or provision of an order and every direction or decision in respect of which no date is specified as aforesaid shall come into force on the day after its date.

Proceedings
not to be held
bad for want
of form, or
appealed
against.

27. Proceedings before the Tribunal shall not be held bad for want of form. No appeal shall lie from any order, direction, or decision of the Tribunal, and, except upon the ground of lack of jurisdiction, no proceeding, order, direction, or decision as aforesaid shall be liable to be challenged, reviewed, quashed, or called in question in any Court.

Bureau Registers

Bureau
register for
each port.

28. (1) The Commission shall cause to be kept for every port a bureau register, on which shall be entered the names of such waterside workers as may from time to time be directed by the New Zealand Port Employers' Association Incorporated or, in the case of workers directly engaged with the prior approval of the Tribunal, by their employers.

(2) The name of any worker shall be removed from the bureau register if—

- (a) He fails to join a union before the expiration of seven days after the date on which his name is placed on the register; or
- (b) He ceases to be a member of a union at any time after the said period of seven days; or
- (c) The removal of his name from the register is directed by the New Zealand Port Employers' Association Incorporated or, in the case of a worker directly engaged with the prior approval of the Tribunal, by his employer; or
- (d) The removal of his name from the register is directed by or under any rules made by the Port Conciliation Committee:

Provided that every worker whose name is removed under paragraph (c) or paragraph (d) of this subsection may, within fourteen days after notice of the removal is given to him, appeal to the Port Conciliation Committee.

(3) Every person whose name is on the bureau register for any port shall be entitled to become a member of a union for that port on application made in accordance with its rules, and in so far as the rules of any union are inconsistent with this subsection they shall be null and void.

29. (1) No person whose name is not on the bureau register for any port shall be employed to do any waterside work at that port unless there is no person whose name is on the register available to do that work and ready and willing to undertake it.

Preference for workers on bureau register, and for permanent workers.

(2) No person who is not in permanent employment as a waterside worker at any port shall be employed to do any waterside work at that port unless there is no person in such permanent employment available to do that work and ready and willing to undertake it:

Provided that the Tribunal may from time to time exempt any employer from this subsection.

30. (1) Any officer or servant of a union for any port may at any reasonable time during business hours inspect the bureau register for that port.

Inspection of bureau register and inspection and evidence of unions' registers of members.

(2) Any officer or servant of the Commission or other person authorized in that behalf by the Commission may at any reasonable time during business hours inspect the register of members of any union for any port and make copies of or extracts from the register or any part thereof.

(3) Every such copy or extract shall be admissible in any proceedings in any Court as evidence of the contents of the register or part thereof, as the case may be.

Conciliation Committees

31. (1) The Minister may from time to time appoint for any port or ports a Port Conciliation Committee, consisting of an equal number of employers' representatives and workers' representatives with an independent Chairman:

Port Conciliation Committees.

Provided that where there are two or more unions for any port two or more Port Conciliation Committees may be appointed for that port.

(2) The employers' representatives shall be appointed on the nomination of the New Zealand Port Employers' Association Incorporated:

Provided that—

- (a) At any railway port the General Manager of Railways shall be entitled to nominate an employers' representative:
- (b) At any port where a Harbour Board acts as wharfinger the Harbour Board shall be entitled to nominate an employers' representative.
- (3) The workers' representatives shall be appointed on the nomination of the union or unions for the port or ports concerned.

(4) The members of every Port Conciliation Committee shall be appointed for a term not exceeding one year.

(5) The Chairman of any Port Conciliation Committee may be at any time removed from office by the Minister for inefficiency, disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of the Minister, or may at any time resign his office by writing addressed to the Minister.

Functions
of Port
Conciliation
Committees.

32. (1) Subject to the control and direction of the Tribunal, and subject to and without affecting the powers of any Harbour Board, every Port Conciliation Committee, in relation to every port for which it is appointed, shall, in addition to its functions in relation to conciliation proceedings under section eighteen of this Act,—

- (a) Ensure the supply of sufficient labour for the efficient working of the port:
- (b) Except where there is a Combined Committee for the port, determine from time to time the number of workers to be entered on the bureau register for the port:
- (c) Classify waterside workers; make rules to be followed in determining the priority of the allocation of labour; and make and enforce bureau rules for the engagement and penalizing of workers engaged through labour engagement bureaux:
- (d) Decide any local disputes that arise in relation to waterside work; and take such action as it thinks fit to prevent or settle local disputes:

- (e) Have power to make rules for the removal of a worker's name from the bureau register, and to determine appeals against any such removal, whether under those rules or by direction of the New Zealand Port Employers' Association Incorporated or, in the case of a worker directly engaged with the prior approval of the Tribunal, by his employer:
- (f) Co-ordinate the activities of any persons or bodies concerned in waterside work:
- (g) Perform and exercise such other duties and powers as may from time to time be allocated to it by the Tribunal.

(2) Any Port Conciliation Committee may at any time, whether before or after it has heard any interested parties in relation thereto, refer to the Tribunal for decision by it any application made to the Committee concerning any dispute, or any question before the Committee.

33. On any matter coming before a Port Conciliation Committee the decision of a majority of the members of the Committee other than the Chairman shall be the decision of the Committee:

Decision
of Port
Conciliation
Committee.

Provided that where a majority of the members of the Committee are unable to agree the decision of the Chairman shall be the decision of the Committee.

34. (1) For every port for which there are two or more Port Conciliation Committees there shall be a combined Conciliation Committee (hereinafter referred to as the Combined Committee), which shall consist of the members of the several Port Conciliation Committees other than the Chairmen, together with a Chairman as hereinafter provided.

Combined
Committees.

(2) Where the same person is the Chairman of the several Port Conciliation Committees he shall be the Chairman of the Combined Committee.

(3) In any other case the Minister shall appoint some person to be the Chairman of the Combined Committee.

35. (1) Subject to the control and direction of the Tribunal, the Combined Committee for any port shall take steps to determine any question arising from time to time between, or concerning the relations of, the several unions for the port, and to prevent or settle disputes between those unions or their members, and, in

Functions of
Combined
Committees.

particular, without limiting the foregoing provisions, the Combined Committee shall determine from time to time the number of workers to be entered on the bureau register for the port.

(2) Any Combined Committee may at any time refer to the Tribunal for decision any question or matter in dispute which is before the Committee.

(3) Any question as to the proper powers and functions of the several Port Conciliation Committees and of the Combined Committee respectively may be referred by any of the several Port Conciliation Committees or by the Combined Committee to the Tribunal for decision.

Decision of
Combined
Committee.

36. On any matter coming before a Combined Committee the unanimous decision of the members present other than the Chairman shall be the decision of the Committee:

Provided that where the members present are unable to reach unanimous agreement the decision of the Chairman shall be the decision of the Committee.

National
Conciliation
Committees.

37. (1) For the purpose of conciliation proceedings under section eighteen of this Act in respect of any specified application relating to two or more ports, the Minister may appoint a National Conciliation Committee, consisting of eight employers' representatives and eight workers' representatives with an independent Chairman.

(2) Of the employers' representatives—

(a) Six shall be appointed on the nomination of the New Zealand Port Employers' Association Incorporated:

(b) One shall be appointed on the nomination of the General Manager of Railways:

(c) One shall be appointed on the nomination of the Harbours Association of New Zealand.

(3) Of the workers' representatives—

(a) Four shall be appointed on the nomination of the North Island (New Zealand) Waterfront Workers' Industrial Association of Workers:

(b) Four shall be appointed on the nomination of the South Island (New Zealand) Waterside Workers' Federation.

(4) The Chairman of each National Conciliation Committee shall be appointed on the unanimous nomination of the employers' representatives and the workers' representatives:

Provided that where the employers' representatives and the workers' representatives are unable to agree on a unanimous nomination the Chairman shall be selected by the Minister.

Amenities Committees

38. (1) The Minister may from time to time appoint a National Amenities Committee, consisting of eight members of whom—

National
Amenities
Committee.

(a) One shall be the Commissioner, who shall be the Chairman of the Committee:

(b) Two shall be appointed on the nomination of the New Zealand Port Employers' Association Incorporated:

(c) One shall be appointed on the nomination of the General Manager of Railways:

(d) Two shall be appointed on the nomination of the Harbours Association of New Zealand:

(e) One shall be appointed on the nomination of the North Island (New Zealand) Waterfront Workers' Industrial Association of Workers:

(f) One shall be appointed on the nomination of the South Island (New Zealand) Waterside Workers' Federation.

(2) The members of the National Amenities Committee shall be appointed for a term not exceeding two years.

39. (1) The functions of the National Amenities Committee shall be—

Functions of
National
Amenities
Committee.

(a) To authorize the Commission to provide amenities for waterside workers (including waiting rooms, restaurants, canteens, and first aid rooms) at any port at a cost not exceeding one thousand pounds for each such amenity:

(b) Subject to the Harbours Act 1950, to approve schemes for the provision by Harbour Boards of necessary amenities for waterside workers:

1950, No. 34

- (c) To fix the rent (excluding maintenance costs) to be paid to any Harbour Board by the Commission for new amenities provided by the Board for waterside workers after the seventeenth day of March, nineteen hundred and fifty-three, so that the rent is based on the cost of the amenities to the Board and ceases to be payable when that cost (including interest and sinking fund) has been repaid to the Board by means of rent or otherwise:

Provided that for the purpose of fixing the rent payable to the Lyttelton Harbour Board for the Waterfront Industry Building now being erected as mentioned in the Lyttelton Harbour Board Loan Act 1949 the cost of that building shall be reduced by the amount collected by the Board by way of the harbour improvement rate authorized by that Act:

- (d) To arrange for the caretaking and cleaning of amenities, and to approve the reimbursement of maintenance costs (including costs of cleaning, heating, lighting, and caretaking) to be paid to any Harbour Board by the Commission for amenities specially provided by the Board for waterside workers, whether provided before or after the seventeenth day of March, nineteen hundred and fifty-three.

(2) No amenities provided for waterside workers before or after the seventeenth day of March, nineteen hundred and fifty-three, whether provided by a Harbour Board or otherwise, shall be used for any other purpose without the approval of the Minister. Where amenities provided by a Harbour Board after that date or provided and paid for by the Commission before or after that date are approved by the Minister to be used for other purposes, the value of those amenities at the time when they cease to be used for waterside workers shall be deducted from the capital cost of new amenities provided by a Harbour Board in place thereof for the purpose of fixing the rent payable to the Board for the new amenities, or, where no new amenities are provided by the Harbour Board, shall be paid to the Commission by the Harbour Board.

(3) If any dispute arises between the National Amenities Committee and any Harbour Board as to the value of any amenities for the purposes of this section, the dispute shall be referred to one arbitrator if the parties can agree upon one, and otherwise to two arbitrators, one to be appointed by the Committee and one by the Board, under the Arbitration Act 1908.

See Reprint
of Statutes,
Vol. I, p. 346

40. (1) At any meeting of the National Amenities Committee, the Chairman and three other members shall form a quorum.

Procedure of
National
Amenities
Committee.

(2) On any matter coming before the National Amenities Committee the unanimous decision of the members present other than the Chairman shall be the decision of the Committee:

Provided that where the members present are unable to reach unanimous agreement the decision of the Chairman shall be the decision of the Committee.

41. (1) The National Amenities Committee may from time to time appoint for any port a Port Amenities Committee, consisting of a Chairman and such representatives of interested parties as may be determined by the National Amenities Committee.

Port Amenities
Committees.

(2) Subject to the control and direction of the National Amenities Committee, the functions of a Port Amenities Committee shall be to prepare schemes for providing amenities for waterside workers and to carry out such other duties as may from time to time be allocated to it by the National Amenities Committee.

General Provisions as to Committees

42. (1) The decision of any Committee appointed under this Act (including a Combined Committee) on any matter shall be pronounced by the Chairman, and no separate pronouncement shall be made by any other member of the Committee with respect to any decision of the Committee.

Procedure of
Committees.

(2) Every order or decision of any such Committee shall be signed by the Chairman.

(3) Subject to the provisions of this Act and of any regulations made under this Act and to the control and direction of the Tribunal, every such Committee may regulate its procedure in such manner as it thinks fit.

Deputies.

43. (1) The Minister may from time to time appoint any person to be the deputy of the Chairman of any Committee appointed under this Act, including a Combined Committee, but not including a Port Amenities Committee.

(2) The National Amenities Committee may from time to time appoint any person to be the deputy of the Chairman of any Port Amenities Committee.

(3) The Deputy Chairman of any Committee may act as Chairman in the absence from any meeting of the Chairman, and while so acting shall have all the powers of the Chairman.

(4) If any member other than the Chairman is unable to be present at any meeting of any Committee, he may, by writing addressed to the Chairman, appoint a deputy to attend that meeting in his place.

(5) Every such deputy shall, while he acts as such, be deemed to be the Chairman or a member of the Committee, as the case may be.

(6) No such appointment of a deputy and no acts done by a deputy as such, or by the Committee while a deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for the appointment had not arisen or had ceased.

Unions and Associations

44. (1) Except as otherwise provided in this section, the provisions of the Industrial Conciliation and Arbitration Act 1925 and the provisions of the Labour Disputes Investigation Act 1913 shall not apply to workers employed in waterside work who are bound by a principal order.

(2) The provisions of the Industrial Conciliation and Arbitration Act 1925 relating to the registration and rules of industrial unions and associations and to the officers and members of industrial unions and

Limited application of Industrial Conciliation and Arbitration Act 1925. See Reprint of Statutes, Vol. III, pp. 939, 1017

associations shall apply to every union and association of workers or employers in the waterfront industry and to the officers and members thereof.

(3) The provisions of the Industrial Conciliation and Arbitration Act 1925 relating to strikes and lockouts and the taking of secret ballots in connection therewith, and the cancellation by the Minister of the registration of any industrial union following on any discontinuance of employment, and the enforcement of awards and industrial agreements shall apply to every employer and to every union and association of workers or employers in the waterfront industry and to the officers and members thereof who are bound by any principal order as if the order were an award or industrial agreement within the meaning of that Act.

45. (1) If in respect of any discontinuance of employment in the waterfront industry the Minister is satisfied that it has caused or is likely to cause serious loss or inconvenience and that it has been brought about wholly or partly by any union or association or by any member or members thereof, the Minister may, by notice in the *Gazette*, suspend in whole or in part all or any of the provisions of any order, direction, or decision made by the Tribunal or by the Commission or by any Committee under this Act in respect of their application to all or any of the ports in New Zealand.

Minister may suspend orders upon discontinuance of employment.

(2) Any notice under this section may be at any time in like manner amended or revoked.

(3) Every notice under this section shall have effect according to its tenor, and shall come into force on the date of its notification in the *Gazette*, or on such later date as may be specified in that behalf in the notice.

Co-operative Contract Fund

46. (1) Out of the money held in its co-operative contract fund as at the thirty-first day of March, nineteen hundred and fifty-one, the Commission may pay to every non-union waterside worker who was employed in waterside work on vessels worked under the co-operative contracting system before the first day of April, nineteen hundred and forty-seven, and has not already received the same, a bonus equivalent to that paid to union workers.

Distribution of money held as at 31 March 1951.

(2) The balance of the money in the co-operative contract fund as at the thirty-first day of March, nineteen hundred and fifty-one, remaining in respect of each port after making provision for bonuses due to non-union workers under this section (including all costs and expenses paid by the Commission), shall be distributed among union workers and non-union workers in proportion to the amounts of the bonuses paid to those workers from the first day of April, nineteen hundred and forty-nine, up to the final distribution of bonus for vessels worked under the co-operative contracting system before the first day of April, nineteen hundred and fifty-one.

(3) The amount of the bonus to be paid to any non-union worker and the amount to be distributed to any worker shall be determined by the Commission according to the records available to it and in such manner as it may consider most practicable, and every such determination shall be final.

Miscellaneous

Officers of
Commission.

47. (1) The Minister may from time to time appoint a General Manager and such other officers and servants of the Commission as he thinks necessary.

(2) Every officer and servant of the Commission shall hold office during the pleasure of the Minister.

(3) Nothing in the Public Service Act 1912 shall apply with respect to the Commissioner or any officer or servant of the Commission.

See Reprint
of Statutes,
Vol. VII,
p. 522

Remuneration
and
administrative
expenses.

48. (1) There shall be paid to the Commissioner, and to the members of the Tribunal, and to the Chairmen of any Committees appointed under this Act, and to the members of National and Port Conciliation Committees, to the members of the National Amenities Committee and Port Amenities Committees, and to the officers and servants of the Commission such remuneration by way of fees, salary, wages, or allowances, and such travelling allowances and expenses as may from time to time be fixed, either generally or in respect of any particular person or persons, by the Minister or, where the payments are made from a grant from the Consolidated Fund under subsection three of this section, by the Minister of Finance.

(2) All such money and the administrative expenses of the Commission shall be paid out of the funds of the Commission.

(3) Subject to appropriation by Parliament grants may from time to time be made to the Commission from the Consolidated Fund for the remuneration and travelling allowances and expenses of the members of the Tribunal, the Commissioner, the Chairmen of Port Conciliation Committees, the Chairmen of Port Amenities Committees, and the Chairmen and other members of National Conciliation Committees, and for such other parts of the administrative expenses of the Commission as may from time to time be determined by the Minister of Finance.

49. (1) Where any person in the service of the Crown, being a contributor to the Government Superannuation Fund, has been appointed to be the Commissioner or an officer or servant of the Commission before the commencement of this Act, he shall be entitled to continue to be a contributor to that Fund, and his service as the Commissioner or as an officer or servant of the Commission shall for the purposes of the Superannuation Act 1947 be deemed to be Government service within the meaning of that Act. Superannuation.
1947, No. 57

(2) On the termination of the appointment of any such person as the Commissioner (otherwise than by his removal from office under subsection three of section five of this Act), he shall, unless he is reappointed as the Commissioner or appointed to an office in the Public Service, or has declined to accept such reappointment or any such appointment as aforesaid or has ceased to be a contributor to the Government Superannuation Fund, be entitled to receive from the Fund an annual retiring allowance for the rest of his life computed as provided in section thirty-one of the Superannuation Act 1947.

(3) The provisions of the regulations for the time being in force under the Public Service Act 1912 as to retiring leave shall apply to every person who at the commencement of this Act is holding office as the Commissioner or an officer or servant of the Commission and is a contributor to the Government Superannuation Fund as if he were employed in the Public Service.

See Reprint
of Statutes,
Vol. VII, p. 522

(4) The Commission may subsidize the National Provident Fund or any other fund or scheme established with the approval of the Minister of Finance for the purpose of providing superannuation or retiring allowances for the Commissioner and the officers and servants of the Commission.

Accounts of
Commission.

50. (1) The Commission may establish at any branch of the Bank of New Zealand, under such name as it thinks fit, such accounts as it deems necessary or convenient for the exercise of its powers under this Act, and may authorize those accounts to be operated on respectively by such person or persons as the Commission from time to time appoints for that purpose.

(2) The Commission may arrange with the Bank of New Zealand for one of those accounts established in Wellington to be overdrawn as the Commission and the Bank may agree.

(3) There shall be paid into one or other of the accounts aforesaid, as the Commission may from time to time direct, all money received by the Commission pursuant to this Act, and all other money received by the Commission from any other source.

(4) The person or persons for the time being appointed by the Commission to operate upon any bank account opened as aforesaid shall, unless the Commission otherwise directs, have power to endorse for collection to the credit of that account any negotiable or transferable instrument payable to the order of the Commission.

(5) The Commission shall keep proper accounts of its money and property, and its accounts and stores shall be audited either by the Audit Office or by an auditor to be appointed for the purpose by the Audit Office in the same manner in all respects as if the money and stores of the Commission were public money and public stores within the meaning of the Public Revenues Act 1953.

(6) Section three of the Unclaimed Moneys Act 1908 and section twenty-eight of the Finance Act 1932 shall not apply with respect to the Commission. Section thirty of the Finance Act 1932, in its application to the Commission, shall be read as if the unclaimed money required by that section to be paid into the Public Account to the credit of the Consolidated Fund were

1953, No. 73

See Reprint
of Statutes,
Vol. VI, p. 10
1932, No. 11

required to be paid as aforesaid not later than the thirty-first day of October in the financial year of the Commission following that in which the money first became unclaimed money within the meaning of the Unclaimed Moneys Act 1908.

See Reprint
of Statutes,
Vol. VI, p. 10

Delegation
of powers.

51. (1) The Minister, or any other person with the authority of the Minister, may from time to time, either generally or particularly, delegate any of the powers conferred on him by this Act, including the power of delegation conferred by this section:

Provided that the Minister shall not delegate any powers except such of the powers conferred on him by sections forty-seven and forty-eight of this Act as do not relate to any person whose remuneration is paid from a grant from the Consolidated Fund under subsection three of section forty-eight of this Act.

(2) Subject to any general or special directions given or conditions imposed by the Minister or other person by whom any powers are delegated as aforesaid, the person to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(4) Any delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder for the time being of a specified office.

(5) The delegation by the Minister or by any other person of any powers conferred on him by or by virtue of this Act shall not prevent the exercise of those powers by the Minister or by that other person, as the case may be.

52. (1) Any contract which if made between private persons must be by deed shall, if made by the Commission, be in writing under the seal of the Commission.

Contracts of
Commission.

(2) Any contract which if made between private persons must be in writing signed by the parties to be charged therewith shall, if made by the Commission, be

either under the seal of the Commission or signed by the Commissioner, or by the General Manager on behalf of and by direction of the Commission.

(3) Any contract which if made between private persons may be made orally may be similarly made by or on behalf of the Commission by the Commissioner, or by the General Manager acting on behalf of and by direction of the Commission, but no oral contract shall be made involving the payment by the Commission of a sum exceeding fifty pounds.

(4) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Commission shall be invalid by reason only that it is not made in the manner prescribed by this section if it is made pursuant to a decision of the Commission or to give effect to a decision of the Commission.

**Annual
report.**

53. (1) The Commission shall, as soon as practicable after the expiration of every financial year, furnish to the Minister a report of its proceedings and operations for that year together with a copy of its accounts for that year certified by the auditor of the Commission.

(2) A copy of the report and accounts shall be laid before Parliament.

Regulations.

54. (1) The Governor-General may from time to time, by Order in Council, make regulations for any purpose for which regulations are contemplated or required by this Act, and all such other regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

- (a) Prescribing any forms required for the purposes of this Act:
- (b) Regulating the procedure of the Tribunal and of any Committees appointed under this Act:
- (c) Providing for the registration of agreements made between any employer or organization of employers and any organization of waterside workers in connection with waterside work.

(3) All regulations made under this section shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

55. (1) The Waterfront Industry Emergency Regulations 1946, and the Waterfront Industry Emergency Regulations 1946, Amendment No. 10, are hereby revoked.

Revocations
and savings.
Serial Nos.
1946/102;
1951/288

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the revocation of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so revoked or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the revocation and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

See Reprint
of Statutes,
Vol. VIII,
p. 568