



ANALYSIS

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1980, No. 26

An Act to amend the Waterfront Industry Act 1976

[4 October 1980]

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

1. Short Title—This Act may be cited as the Waterfront Industry Amendment Act 1980, and shall be read together with and deemed part of the Waterfront Industry Act 1976 (hereinafter referred to as the principal Act).

2. Interpretation—Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “agreement”, the following definition:

“‘Appointed member’ means, in relation to the Tribunal, any member of the Tribunal (other than the Chairman):”.

3. Acting members of Commission—The principal Act is hereby amended by inserting, after section 4, the following section:

“4A. (1) The Governor-General may from time to time, on the recommendation of the Minister, appoint, in respect of any member of the Commission (other than the Chairman), a person to be an acting member of the Commission, to act in the absence of the member of the Commission in respect of whom the acting member is appointed.

“(2) An acting member shall be appointed in the same manner as the member in whose absence he is to act.

“(3) If at any time the office of any member of the Commission (other than the Chairman) is vacant, or if any member of the Commission (other than the Chairman) is not present at a meeting of the Commission, the Chairman may summon the appropriate acting member to attend the meeting of the Commission and to act in the place of the member in respect of whom the acting member is appointed. While so attending and acting the acting member shall have the powers, functions, and privileges, and shall perform the duties, of the member for whom he is acting.

“(4) When the member for whom the acting member is acting is again present at the meetings of the Commission, the acting member shall cease to act; but, if the acting member is then engaged in the consideration of any matter, the Chairman may require him to complete the consideration of that matter before ceasing to act.

“(5) No appointment of an acting member and no acts done by an acting member as such, and no acts done by the Commission while any acting member is acting as such, shall in any proceedings be questioned on the ground that the occasion for the appointment of the acting member had not arisen or had ceased.”

4. New sections substituted—The principal Act is hereby amended by repealing sections 6 to 8 (as amended by subsections (3) to (5) of section 3 of the *Waterfront Industry Amendment Act 1977*), and substituting the following sections:

“**6. Term of office**—(1) Except as otherwise provided in this Act, every member or acting member of the Commission and every appointed member of the Tribunal shall be appointed for a term not exceeding 3 years, but may from time to time be reappointed.

“(2) Notwithstanding anything to the contrary in this Act, every member or acting member of the Commission and every appointed member of the Tribunal, unless he sooner vacates his office under section 7 of this Act, shall continue to hold office until his successor comes into office.

“6A. **Incapacity for appointment**—The following persons shall be incapable of being appointed or of holding office as a member or acting member of the Commission or as an appointed member of the Tribunal:

- “(a) A bankrupt who has not been discharged, or whose order of discharge is suspended for a time not yet expired or is subject to conditions not yet fulfilled;
- “(b) A mentally disordered person within the meaning of the Mental Health Act 1969;
- “(c) An alien;
- “(d) A person who has attained the age of 72 years.

“7. **Extraordinary vacancies**—(1) The Governor-General shall remove a member or acting member of the Commission or an appointed member of the Tribunal if that member—

- “(a) Becomes incapable under section 6A of this Act; or
- “(b) Is proved, to the satisfaction of the Governor-General, to be under a disability or to have been guilty of neglect of duty or misconduct; or
- “(c) Is absent without the consent of the Chairman from 4 consecutive meetings of the Commission or from 4 consecutive sittings of the Tribunal, as the case may be.

“(2) A member or acting member of the Commission or an appointed member of the Tribunal may resign his office by letter addressed to the Minister.

“(3) If a member or acting member of the Commission or an appointed 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.

“(4) If an acting member of the Commission is appointed, under any provision of section 4 (2) of this Act, as a member of the Commission, an extraordinary vacancy shall be deemed to exist in the office of acting member.

“(5) Any extraordinary vacancy shall, as soon as practicable, be filled in the manner in which the appointment to the vacant office was originally made.

“(6) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed.

“**8. Deputies of appointed members of Tribunal**—(1) In any case in which the Governor-General is satisfied that any appointed 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 member was appointed, appoint a fit person to act as deputy for the member during his incapacity.

“(2) Every such deputy shall, while he acts as such, be deemed to be a member of the Tribunal.

“(3) No such appointment of a deputy and no acts done by a deputy as such, or by 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.”

5. Powers of Commission—Section 11 (2) (a) (ix) of the principal Act is hereby amended by inserting, after the word “members”, the words “(including acting members)”.

6. Procedure of Commission—Section 12 of the principal Act is hereby amended by adding the following subsections:

“(7) If at any time the office of Chairman of the Commission is vacant or if the Chairman of the Commission is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the General Manager may, after first obtaining, on each occasion, the written consent of the Minister, act as the Chairman of the Commission.

“(8) Where the General Manager acts as the Chairman of the Commission at any meeting of the Commission, no officer of the Commission shall attend that meeting by virtue of an appointment under subsection (5) of this section.”

7. Register of employers for each port—Section 34 (3) of the principal Act is hereby amended by omitting the words “or an”, and substituting the words “or a union or”.

8. Remuneration and administrative expenses—The principal Act is hereby amended by repealing section 54 (as amended by section 33 (1) of the Higher Salaries Commission Act 1977), and substituting the following section:

“54. (1) There shall be paid to—

“(a) The members and acting members of the Commission; and

“(b) The appointed members of the Tribunal; and

“(c) The members of each Conciliation Council; and

“(d) The members of each Port Conciliation Committee; and

“(e) The members of each Port Amenities Committee,—remuneration by way of fees, salaries, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if each of those bodies were a statutory Board within the meaning of that Act.

“(2) Notwithstanding section 53 (4) of this Act, the General Manager shall be paid such salary as is from time to time fixed by the Higher Salaries Commission and such allowances as are from time to time fixed by the Minister.

“(3) The other officers and employees of the Commission shall be paid such salaries and allowances as are from time to time fixed by the Minister.

“(4) All such payments and the administrative expenses of the Commission shall be paid out of the funds of the Commission.

“(5) Subject to appropriation by Parliament, grants may from time to time be made to the Commission from the Consolidated Account for the remuneration and travelling allowances and expenses of the appointed members of the Tribunal, the members of Port Conciliation Committees, and the members of Conciliation Councils.”

9. Repeals—(1) Section 3 of the Waterfront Industry Amendment Act 1977 is hereby consequentially amended by repealing subsections (3) to (5).

(2) The Higher Salaries Commission Act 1977 is hereby consequentially amended by repealing so much of the Fifth Schedule as relates to the Waterfront Industry Act 1976.

10. Saving in respect of appointed members of Tribunal—

(1) Any appointed member of the Tribunal who is in office at the commencement of this Act and who has then attained the age of 72 years may, notwithstanding section 6A (d) of the principal Act (as enacted by section 4 of this Act), but subject to sections 6A (a) to (c) and 7 of the principal Act

(as so enacted), continue to hold office as an appointed member of the Tribunal until the close of the 31st day of March 1981.

(2) Nothing in section 6 (2) of the principal Act (as substituted by section 4 of this Act) shall apply in respect of any appointed member of the Tribunal to whom subsection (1) of this section applies.

This Act is administered in the Department of Labour.
