



ANALYSIS

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1987, No. 82

An Act to amend the Waterfront Industry Act 1976

[28 May 1987

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Waterfront Industry Commission Amendment Act 1987, and shall be read together with and deemed part of the Act heretofore known as the Waterfront Industry Act 1976 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of August 1987.

2. Altering Short Titles of principal Act and amending Act—(1) The principal Act may hereafter be cited as the Waterfront Industry Commission Act 1976.

(2) The Short Title of the principal Act and the Short Title of the Waterfront Industry Amendment Act 1980 are hereby consequentially amended, in each case, by inserting, after the word “Industry”, the word “Commission”.

(3) Every reference in any enactment or in any document whatsoever to either of the Acts specified in subsection (2) of this section shall hereafter, unless the context otherwise requires, be read as if there were inserted, after the word “Industry”, the word “Commission”.

3. Interpretation—(1) Section 2 (1) of the principal Act (as amended by section 2 of the Waterfront Industry Amendment Act 1980 and section 2 of the Waterfront Industry Amendment Act 1985) is hereby amended by repealing the definitions of the terms “agreement”, “appointed member”, “authorised representative”, “collective agreement”, “composite work force”, “Conciliation Council”, “discontinuance of employment”, “Port Conciliation Committee”, “principal order”, “Tribunal”, “union membership clause”, and “Union Membership Exemption Tribunal”.

(2) Section 2 (1) of the principal Act (as so amended) is hereby further amended by inserting, after the definition of the term “ISO container”, the following definition:

“ ‘Labour Court’ means the Labour Court constituted under the Labour Relations Act 1987:”.

(3) Section 2 (1) of the principal Act (as so amended) is hereby further amended by omitting the definition of the term “union”, and substituting the following definition:

“ ‘Union’ means an employers organisation or a union of workers registered under the Labour Relations Act 1987:”.

(4) Section 2 (1) of the principal Act (as so amended) is hereby further amended by omitting from paragraph (d) of the definition of the term “waterside work” the word “Tribunal” in both places where it occurs, and substituting in each case the words “Labour Court”.

(5) Section 2 of the principal Act is hereby further amended by repealing subsections (3A) and (3B) (as added by section 2 (4) of the Waterfront Industry Amendment Act 1985).

(6) Section 2 of the Waterfront Industry Amendment Act 1980 is hereby consequentially repealed.

4. Waterfront Industry Commission—Section 4 (2) of the principal Act (as amended by section 2 (1) of the Waterfront Industry Amendment Act 1977) is hereby amended by repealing paragraphs (b) to (d), and substituting the following paragraphs:

“(b) One shall be appointed on the nomination of an organisation of employers (being the organisation of employers that the Minister is satisfied is the most representative of registered employers of waterside workers):

“(c) One shall be appointed on the nomination of an organisation of harbour boards (being the organisation of harbour boards that the Minister is satisfied is the most representative of harbour boards at ports where the Commission provides amenities for waterside workers):

“(d) Two shall be appointed on the nomination of an organisation of workers (being the organisation of workers that the Minister is satisfied is the most representative of waterside workers in New Zealand).”

5. Abolition of Waterfront Industry Tribunal—

(1) Section 5 of the principal Act (as amended by section 3 of the Waterfront Industry Amendment Act 1977) is hereby repealed.

(2) Section 6 of the principal Act (as substituted by section 4 of the Waterfront Industry Amendment Act 1980) is hereby amended by omitting the words “and every appointed member of the Tribunal” in both places where they occur.

(3) Section 6A of the principal Act (as inserted by section 4 of the Waterfront Industry Amendment Act 1980) is hereby amended by omitting the words “or as an appointed member of the Tribunal”.

(4) Section 7 of the principal Act (as substituted by section 4 of the Waterfront Industry Amendment Act 1980) is hereby amended—

(a) By omitting the words “or an appointed member of the Tribunal” wherever they occur; and

(b) By omitting from subsection (1) (c) the words “or from 4 consecutive sittings of the Tribunal, as the case may be”.

(5) Section 8 of the principal Act (as substituted by section 4 of the Waterfront Industry Amendment Act 1980) is hereby repealed.

6. Functions of Commission—Section 9 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Where any waterside workers have, with the written permission of the Arbitration Commission, been directly engaged and employed by an employer, the Commission may grant to that employer permission to carry out, in respect of those workers, all or any of the functions conferred on the Commission by subsection (1) (a) of this section. Any such permission may be revoked at any time by the Commission.”

7. Powers of Commission—(1) Section 11 (2) (a) (xii) of the principal Act is hereby amended by omitting the words “, or prescribed by order of the Tribunal,”.

(2) Section 11 (2) (a) of the principal Act is hereby amended by omitting from the proviso (as amended by section 2 (1) of the Waterfront Industry Amendment Act 1977) the words “New Zealand Waterside Employers Industrial Union of Employers and the New Zealand Harbour Boards Industrial Union of Employers”, and substituting the words “the organisation of employers and the organisation of harbour boards referred to in paragraphs (b) and (c) of section 4 (2) of this Act”.

8. Repeal of provisions relating to function and powers of Tribunal—(1) Sections 14 to 33 of the principal Act are hereby repealed.

(2) Section 4 of the Remuneration Act Repeal Act 1980 is hereby consequentially repealed.

9. Application for entry on register of employers—Section 35 (3) of the principal Act is hereby amended by omitting the word “Tribunal” in both places where it occurs, and substituting, in each case, the words “Labour Court”.

10. Repeal of provision relating to employer’s obligations—Section 36 of the principal Act is hereby repealed.

11. Cancellation or suspension of registration of employers—The principal Act is hereby amended by repealing section 37, and substituting the following section:

“37. (1) If the Commission is satisfied that an employer registered at a port—

“(a) Has applied for the cancellation or suspension of that employer’s registration; or

“(b) Has ceased to carry out the work and obligations of a registered employer; or

“(c) Does not have the means of carrying out waterside work at the port in an expeditious, safe, and efficient manner or of discharging the duties and obligations of an employer under this Act; or

“(d) Is not able, or may become unable, to pay, as they become due, wages or other amounts payable in respect of waterside work (including any levies imposed under this Act); or

“(e) Has failed to comply with an order or direction of the Commission; or

“(f) Has been convicted of an offence under this Act,—
the Commission may, if it thinks it appropriate to do so in the circumstances, cancel the registration of that employer or suspend that employer’s registration until the expiration of such period as it thinks fit.”

12. Bureau register for each port—(1) The principal Act is hereby amended by repealing section 38 (as substituted by section 4 (1) of the Waterfront Industry Amendment Act 1985), and substituting the following section:

“38. (1) The Commission shall keep, at each port, a bureau register, on which shall be entered the names of such waterside workers as may from time to time be determined by the organisations referred to in paragraphs (b) to (d) of section 4 (2) of this Act, in such classifications as the Commission determines.

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

“(a) The worker requests that the worker’s name be removed from the register; or

“(b) The removal of the worker’s name from the register is directed by an organisation of employers (being the organisation of employers that the Minister is satisfied is most representative of registered employers of waterside workers).

“(3) The removal of a worker’s name under subsection (2) (b) of this section is deemed to be a personal grievance within the meaning of the Labour Relations Act 1987 and, subject to subsection (4) of this section, all the provisions and procedures which relate to personal grievances and which are prescribed by that Act shall apply.

“(4) For the purposes of subsection (3) of this section and the Labour Relations Act 1987, the organisation referred to in subsection (2) (b) of this section shall be deemed to be the employer of the worker.

“(5) The name of any person that was on the bureau register for any port immediately before the date of the commencement of this section shall be deemed to have been entered on that date on the register of waterside workers for that port.

“(6) The bureau register need not be kept in the form of a book.”

(2) Section 38A of the principal Act (as substituted by section 4 (1) of the Waterfront Industry Amendment Act 1985) is hereby repealed.

13. Repeal of provisions relating to preference by virtue of union membership clause—Sections 40A to 40R of the principal Act (as inserted by section 5 (1) of the Waterfront Industry Amendment Act 1985) are hereby repealed.

14. Abolition of Port Conciliation Committees—Sections 41 to 43 of the principal Act and the heading above those sections are hereby repealed.

15. Abolition of conciliation councils—Section 44 of the principal Act and the heading above that section are hereby repealed.

16. Repeal of provision relating to procedure of committees and councils—Section 45 of the principal Act is hereby repealed.

17. Term of office—Section 46 of the principal Act is hereby amended by repealing subsection (5) (as substituted by section 4 of the Waterfront Industry Amendment Act 1977), and substituting the following subsection:

“(5) In this section the term ‘appointing authority’ means, in respect of any committee appointed by the Commission, the Commission.”

18. Repeal of provision relating to deputies—Section 47 of the principal Act is hereby repealed.

19. Duties and powers of Inspectors—Section 48 (3) of the principal Act is hereby amended by omitting the words “conviction by the Tribunal”, and substituting the words “summary conviction”.

20. Repeal of provision relating to limited application of Industrial Relations Act 1973—Section 50 of the principal Act (as substituted by section 6 (1) of the Waterfront Industry Amendment Act 1983) is hereby repealed.

21. Repeal of provision relating to powers of Tribunal to enforce penalty provisions—Section 51 of the principal Act (as amended by section 5 (d) of the Waterfront Industry Amendment Act 1977) is hereby repealed.

22. Repeal of provision empowering Minister to suspend orders upon discontinuance of employment—Section 52 of the principal Act is hereby repealed.

23. Officers of Commission—Section 53 (4) of the principal Act is hereby amended by omitting the words “and other officers and employees of the Commission”.

24. Remuneration, travelling expenses, and administrative expenses—(1) The principal Act is hereby amended by repealing section 54 (as substituted by section 3 of the Waterfront Industry Amendment Act 1982 and amended by section 9 (2) of the Higher Salaries Commission Amendment Act (No. 2) 1985), and substituting the following section:

“54. (1) There shall be paid to the members and acting members of the Commission 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 persons were a member of 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 and such allowances as are from time to time determined by the Higher Salaries

Commission pursuant to the Higher Salaries Commission Act 1977 and such additional allowances, being travelling allowances or other incidental or minor allowances, as are from time to time fixed by the Minister.

“(3) The other officers and employees of the Commission shall be employed on such terms and conditions of employment and shall be paid such salaries and allowances as the General Manager from time to time determines in agreement with the State Services Commission, or as the Minister from time to time determines in any case where the General Manager and the State Services Commission fail to agree.

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

(2) The Higher Salaries Commission Amendment Act (No. 2) 1985 is hereby consequentially amended by repealing so much of the Second Schedule as relates to the Waterfront Industry Act 1976.

25. Delegation of powers—Section 58 of the principal Act is hereby amended by repealing the proviso to subsection (1).

26. Regulations—Section 61 (b) of the principal Act is hereby amended by omitting the words “the Tribunal and”.

27. Repeals—The following enactments are hereby repealed, namely:

- (a) The Waterfront Industry Amendment Act 1977:
- (b) The Waterfront Industry Amendment Act 1982:
- (c) The Waterfront Industry Amendment Act 1983:
- (d) The Waterfront Industry Amendment Act 1984:
- (e) The Waterfront Industry Amendment Act 1985.