

Hon. Mr. Millar.

INDUSTRIAL CONCILIATION AND ARBITRATION  
AMENDMENT.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Commencement of Act.</p> <p style="text-align: center;">PART I.</p> <p style="text-align: center;">STRIKES AND LOCK-OUTS.</p> <p>3. Definition of "strike."</p> <p>4. Definition of "lock-out."</p> <p>5. Penalties on parties to strike or to lock-out.</p> <p>6. Offences in connection with strike or lock-out by persons not parties thereto.</p> <p>7. Recovery of penalties.</p> <p>8. Repeal.</p> <p>9. Special penalties with respect to striking without due notice by workers employed in certain specified industries.</p> <p>10. Suspension of registration of union convicted of certain offences.</p> <p style="text-align: center;">PART II.</p> <p style="text-align: center;">ENFORCEMENT OF AWARDS AND INDUSTRIAL AGREEMENTS.</p> <p>11. Repeal.</p> <p>12. Application of provisions of enforcement of awards and agreements</p> <p>13. Penalties for breach of award or industrial agreement.</p> <p>14. Recovery of penalties.</p> <p>15. Defendant to give notice of intention to defend.</p> <p>16. Powers of Magistrate hearing action.</p> <p>17. Application of penalties recovered.</p> <p>18. Magistrate may state case for Court of Arbitration.</p> <p>19. Appeal from Magistrate to Court of Arbitration.</p> <p>20. Enforcement of judgment.</p> <p>21. On notice from Inspector of Awards, amount of judgment to be deducted by employer from moneys due to defendant. Moneys so to be deducted to have priority over assignment or other charge upon wages, &amp;c.</p> <p>22. Governor may make regulations as to procedure</p> <p>23. Enforcement of certificate of Court of Arbitration.</p> <p>24. In default of industrial union or association, amount of judgment may be recovered from members thereof.</p> <p style="text-align: center;">PART III.</p> <p style="text-align: center;">CONCILIATION.</p> <p>25. No further reference of disputes to Conciliation Boards.</p> | <p>26. In first instance, disputes to be referred to Councils of Conciliation.</p> <p>27. Industrial union or association may make application to Magistrate to have dispute referred to Council of Conciliation. Qualifications and appointment of assessor on behalf of applicants.</p> <p>28. Magistrate to appoint date for hearing dispute and to cite respondents to attend.</p> <p>29. Qualifications and appointment of assessor on behalf of respondents.</p> <p>30. Magistrate and two assessors to constitute Council of Conciliation.</p> <p>31. Powers and duties of Council with respect to dispute. Meetings of Council.</p> <p>32. Parties to dispute may appear before Council.</p> <p>33. Council to proceed with inquiry, notwithstanding absence of applicants or respondents.</p> <p>34. Council may join or strike out parties as applicants or respondents.</p> <p>35. Terms of settlement to form industrial agreement.</p> <p>36. If no settlement arrived at, Council to make recommendation as to settlement.</p> <p>37. Provisional arrangement where no settlement arrived at.</p> <p>38. Recommendation of Council to be submitted to Clerk of Awards and published.</p> <p>39. Parties may bind themselves by memorandum of consent to accept recommendation of Council. Such memorandum of consent not generally binding.</p> <p>40. Council may state case for Court of Arbitration.</p> <p>41. Parties not bound by memorandum of consent may refer dispute to Court.</p> <p>42. On failure, for one month, of Council to make recommendation, parties may refer dispute to Court.</p> <p>43. Powers of Court with respect to dispute.</p> <p>44. Regulations.</p> <p style="text-align: center;">PART IV.</p> <p style="text-align: center;">MISCELLANEOUS.</p> <p>45. Section 5 of principal Act amended.</p> <p>46. Section 22 of principal Act amended.</p> <p>47. Section 66 of principal Act amended.</p> <p>48. Section 100 of principal Act amended.</p> <p>49. Recovery by worker of difference between wages paid and wages fixed by award.</p> <p>50. Certificate of Labour Department to be proof of age of young workers.</p> <p>51. Copy of award to be conspicuously placed in factory or shop affected thereby.</p> |
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## A BILL INTITULED

Title.

AN ACT to amend the Industrial Conciliation and Arbitration Act, 1905.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— 5

Short Title.

1. This Act may be cited as the Industrial Conciliation and Arbitration Amendment Act, 1908, and shall be read together with and deemed to form part of the Industrial Conciliation and Arbitration Act, 1908 (hereinafter referred to as the principal Act). 10

Commencement of Act.

2. This Act shall come into operation on the first day of January, nineteen hundred and *nine*.

## PART I.

## STRIKES AND LOCK-OUTS.

Definition of "strike."

3. (1.) In this Act the term "strike" means the act of any number of workers who are or have been in the employment whether of the same employer or of different employers, in discontinuing that employment, whether wholly or partially, or in breaking their contracts of service, or in refusing or failing after any such discontinuance to resume or return to their employment, the said discontinuance, breach, refusal, or failure being due to any combination, agreement, or common understanding, whether express or implied, made or entered into by the said workers— 15 20

(a.) With intent to compel or induce their said employers, or any of them, to agree to terms of employment, or comply with any demands made by the said or any other workers; 25

or  
(b.) With intent to *incite*, aid, abet, instigate, or procure any other strike; or

(c.) With intent to assist workers in the employment of any other employer to compel or induce that employer to agree to terms of employment or comply with any demands made upon him by any workers. 30

(2.) In this Act the expression "to strike" means to become a party to a strike, and the term "striker" means a party to a strike. 35

4. In this Act the term "lock-out" means the act of any

*Struck out.*

*employer or any number of employers in closing their respective places of employment, or suspending work therein, or dismissing any of the workers respectively employed by them, or refusing or failing after any such dismissal to employ any worker so dismissed, the said closing, suspension, dismissal, refusal, or failure being due to any combination, agreement, or common understanding, whether express or implied, made or entered into by the said employers —* 40

Definition of "lock-out."

New.

employer, in closing his place of business, or suspending work therein, or dismissing any of the workers employed by him, or refusing or failing after any such dismissal to employ any worker so dismissed, the said closing, suspension, dismissal, refusal, or failure being—

- (a.) With intent to compel or induce any workers to agree to terms of employment, or comply with any demands made upon them by the said or any other employers employer; or
- (b.) With intent to incite, aid, abet, instigate, or procure any other lock-out; or
- (c.) With intent to assist any other employer to compel or induce any workers to agree to terms of employment or comply with any demands made by him.

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5. (1.) When a strike takes place in any industry ~~whether~~ where an award or industrial agreement is in force in respect of that industry ~~or not~~, every worker who is a party to that strike shall be guilty of an offence, and shall be liable to a ~~penalty of~~ fine not exceeding ten pounds.

Struck out.

together with a further penalty of one pound for every week during which the strike continues, and during which he remains a party thereto.

(2.) When a lock-out takes place in any industry ~~whether~~ where an award or industrial agreement is in force in respect of that industry ~~or not~~, every employer who is a party to that lock-out shall be guilty of an offence, and shall be liable to a ~~penalty of~~ fine not exceeding two hundred pounds.

Struck out.

together with a further penalty of fifty pounds for every week during which the lock-out continues, and during which he remains a party thereto.

6. (1.) Where any award applicable to any industry is in force every person who incites, instigates, aids, or abets a strike or lock-out, or the continuance of a strike or lock-out, in such industry, or who incites, instigates, or assists any person to become a party to a such strike or lock-out, shall be guilty of an offence, and shall be liable, if a worker, to a ~~penalty of~~ fine not exceeding ten pounds, and if an industrial union, industrial association, trade-union, employer, or any person other than a worker, to a ~~penalty of~~ fine not exceeding two hundred pounds.

(2.) Every person who makes any gift of money or other valuable thing to or for the benefit of any person who is a party to a such strike or lock-out, or to or for the benefit of any industrial union, industrial association, trade-union, or other society or association of which any such person is a member, shall be deemed to have aided or abetted the strike or lock-out within the meaning of this section, unless he proves that he so acted without the intent of aiding or abetting the strike or lock-out.

Penalties on parties to strike or to lock-out.

Offences in connection with strike or lock-out by persons not parties thereto.

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(3.) *Every person who, while any such strike or lock-out is taking place or impending, or any person who publishes in any newspaper any expression of approval or otherwise, whether by himself or by any other person, of the unlawful action of any person in relation to that strike or lock-out shall be deemed to have incited, instigated, aided, or abetted, as the case may be, the strike or lock-out is liable to a fine not exceeding fifty pounds.*

*New subclauses.*

(3A.) For the purposes of this section a strike or lock-out shall be deemed to be a continuing offence.

(3B.) A strike or lock-out shall be deemed to have ceased when declared "off" by resolution of the union of workers or employers affected, or when the industry affected is again in full work.

*Struck out.*

(4.) When a strike or lock-out takes place, and a majority of the members of any industrial union or industrial association are at any time parties to the strike or lock-out, the said union or association shall be deemed to have instigated the strike or lock-out.

*New clauses.*

5. (1.) When a strike takes place in any industry every worker who is or becomes a party to the strike and who is at the commencement of the strike bound by any award or industrial agreement affecting that industry shall be liable to a penalty not exceeding *ten* pounds.

(2.) When a lock-out takes place in any industry every employer who is or becomes a party to the lock-out and who is at the commencement of the lock-out bound by any award or industrial agreement affecting that industry shall be liable to a penalty not exceeding *five* hundred pounds.

(3.) No worker or employer shall be liable to more than one penalty in respect of the same strike or lock-out, notwithstanding the continuance thereof.

(4.) No proceedings shall be commenced or continued under this section against any worker or employer who is a party to a strike or lock-out if judgment has already been obtained under the next succeeding section in respect of the same strike or lock-out against any industrial union or industrial association of which the worker or employer is a member.

6. (1.) Every person who incites, instigates, aids, or abets an unlawful strike or lock-out 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, to a penalty not exceeding *ten* pounds, and if an industrial union, industrial association, trade-union, employer, or any person other than a worker, to a penalty not exceeding *two hundred* pounds.

(2.) Every person who makes any gift of money or other valuable thing to or for the benefit of any person who is a party to any unlawful strike or lock-out, or to or for the benefit of any industrial union, industrial association, trade-union, or other society or association of which any such person is a member, shall be deemed to have aided

Parties instigating strike.

Penalties on parties to strike or to lock-out.

Offences in connection with strike or lock-out by persons not parties thereto.

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or abetted the strike or lock-out within the meaning of this section, unless he proves that he so acted without the intent of aiding or abetting the strike or lock-out.

(3.) When a strike or lock-out takes place, and a majority of the members of any industrial union or industrial association are at any time parties to the strike or lock-out, the said union or association shall be deemed to have instigated the strike or lock-out.

(4.) In this section the term "unlawful strike" means a strike of any workers who are bound at the commencement of the strike by an award or industrial agreement affecting the industry in which the strike arises.

(5.) In this section the term "unlawful lock-out" means a lock-out by any employer who is bound at the commencement of the lock-out by an award or industrial agreement affecting the industry in which the lock-out occurs.

7. Every penalty hereinbefore referred to shall be recoverable at the suit of an Inspector of Awards in the same manner as a penalty for a breach of an award and not otherwise, and all the provisions hereinafter in this Act contained with respect to the enforcement of an award shall, so far as applicable, apply accordingly.

Recovery of penalties.

8. Section ~~fifteen~~ *one hundred and eleven* of the ~~Industrial Conciliation and Arbitration Amendment Act, 19058,~~ *principal Act* is hereby repealed.

Repeal.

*Struck out.*

9. (1.) If any person employed in any of the industries to which this section applies strikes without having given to his employer, within one month before so striking, not less than ~~twenty-one~~ *fourteen* days' notice in writing, signed by him, of his intention to strike, the striker shall be liable on summary conviction before a Magistrate to a fine ~~of ten~~ *not exceeding twenty-five pounds* ~~or to imprisonment for three months.~~

Special penalties with respect to striking without due notice by workers employed in certain specified industries.

(2.) This section applies to the following industries :—

(a.) The manufacture or supply of coal-gas :

(b.) The manufacture or supply of electricity for light or power :

(c.) The supply of water to the inhabitants of any borough or other place :

~~(d.) The manufacture or supply of bread :~~

(e.) The supply of milk for domestic consumption :

(f.) The slaughtering or supply of meat for domestic consumption :

(g.) The retail sale or delivery of coal, whether for domestic or industrial purposes :

(h.) The working of any *ferry*, tramway, or railway used for the public carriage of goods or passengers :

*Struck out.*

(i.) Any industry or occupation of such a nature that any danger to the public health or safety, or any injury or destruction of the property of the employer, has resulted from the strike.

(3.) Every person who incites, instigates, aids, or abets any offence against this section, or who incites, instigates, or assists any

*Struck out.*

person who has struck in breach of this section, to continue to be a party to the strike shall be liable, on summary conviction before a Magistrate, ~~to imprisonment for three months, or~~ to a fine not exceeding in the case of a worker *ten* pounds, or in the case of an industrial union, industrial association, trade-union, employer, or any person other than a worker, *two hundred* pounds.

(4.) Nothing in this section shall affect any liability under section *five* of this Act, save that when a judgment or conviction has been obtained against any person under one of the said sections no further proceedings shall be taken or continued against him under the other in respect of the same act.

*New clause.*

9. (1.) If any person employed in any of the industries to which this section applies strikes without having given to his employer, within one month before so striking, not less than fourteen days' notice in writing, signed by him, of his intention to strike, the striker shall be liable on summary conviction before a Magistrate to a fine not exceeding *twenty-five* pounds.

(2.) If any employer engaged in any of the industries to which this section applies locks out without having given to his employees within one month before so locking out not less than fourteen days' notice in writing signed by him of his intention to lock out, such employer shall be liable on summary conviction before a Magistrate to a fine not exceeding *two hundred* pounds."

(3.) This section applies to the following industries :—

(a.) The manufacture or supply of coal-gas :

(b.) The production or supply of electricity for light or power :

(c.) The supply of water to the inhabitants of any borough or other place :

(d.) The supply of milk for domestic consumption :

(e.) The slaughtering or supply of meat for domestic consumption :

(f.) The retail sale or delivery of coal, whether for domestic or industrial purposes :

(g.) The working of any ferry, tramway, or railway used for the public carriage of goods or passengers.

(4.) Every person who incites, instigates, aids, or abets any offence against this section, or who incites, instigates, or assists any person who has struck in breach of this section, to continue to be a party to the strike shall be liable, on summary conviction before a Magistrate, to a fine not exceeding in the case of a worker *twenty-five* pounds, or in the case of an industrial union, industrial association, trade-union, employer, or any person other than a worker, *two hundred* pounds.

(5.) Nothing in this section shall affect any liability under section *five* or section *six* of this Act, save that when a judgment or conviction has been obtained against any person under one of the said sections no further proceedings shall be taken or continued against him under any other of those sections in respect of the same act.

Special penalties with respect to striking without due notice by workers employed in certain specified industries.

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Suspension of registration of union convicted of certain offences.

10. (1.) When an industrial union or industrial association of workers is convicted under section *nine* of this Act of having incited, instigated, aided, or abetted the commission by any of its members of an offence against that section, or when judgment is obtained under  
5 section ~~five~~ *six* of this Act against an industrial union or industrial association of workers for a penalty incurred by it for inciting, instigating, aiding, or abetting a strike by any of its members, the Court in which the conviction or judgment is obtained ~~shall~~ *may* in  
10 the said conviction or judgment order that the registration of the union or association shall be suspended for such period as the Court thinks fit, not exceeding ~~three~~ *two* years.

(2.) During any such period of suspension the said union or association shall be incapable of instituting or continuing or of being  
15 a party to any conciliation or arbitration proceedings under the principal Act or this Act, or of entering into any industrial agreement, or of taking or continuing any proceedings for the enforcement of an award or industrial agreement, or of making any application for the cancellation of its registration.

(3.) During any such period of suspension the operation of any  
20 award or industrial agreement in force at any time during that period shall be suspended so far as the award or industrial agreement applies to persons who are members of that union or association, or who were members thereof at the time when the said judgment or conviction  
25 was given or obtained, and also so far as the award or industrial agreement applies to the employers of any such persons :

*New proviso.*

30 Provided that in making the order of suspension the Court may limit the operation of this subsection to any industrial district or districts, or to any portion thereof.

(4.) During any ~~such~~ period of *such* suspension no new industrial union or industrial association of workers shall be registered in the same industrial district in respect of the same industry.

*Struck out.*

35 (5.) Every such order of suspension shall be subject to the same right of appeal as the judgment or conviction in respect of which it is made.

*New subclauses.*

40 (5.) The industrial union or industrial association against which any such order of suspension is made may appeal therefrom in the same manner as from the judgment or conviction in respect of which the order is made, and on any such appeal the Court in which it is heard may confirm, vary, or quash the order of suspension, and may make such order as to the costs of the appeal as the said Court thinks fit.

45 (6.) The variation or quashing of an order of suspension on appeal shall take effect as from the date on which the order is so varied or quashed, and not as from the date of the order.

50 (7.) Every judgment or conviction in respect of which any such order of suspension is made shall be subject to appeal, whether on a point of law or fact, whatever may be the amount of that judgment or of the fine imposed by that conviction.

## PART II.

## ENFORCEMENT OF AWARDS AND INDUSTRIAL AGREEMENTS.

Repeal.

11. Sections thirty, one hundred and one, and one hundred and two of the principal Act are hereby repealed.

Application of provisions as to enforcement of awards and agreements.

12. This Part of this Act applies to all awards and industrial agreements whether made before or after the commencement of this Act, and to all breaches of awards or industrial agreements whether committed before or after the commencement of this Act, save that all proceedings for the enforcement of any award or industrial agreement which are pending at the commencement of this Act may be continued in the same manner as if this Act had not been passed.

Penalties for breach of award or industrial agreement.

13. (1.) Every industrial union, industrial association, or employer who commits a breach of an award or industrial agreement shall be liable to a penalty ~~of~~ *not exceeding* one hundred pounds in respect of every such breach.

(2.) Every worker who commits a breach of an award or industrial agreement shall be liable to a penalty ~~of~~ *not exceeding* five pounds in respect of every such breach.

Recovery of penalties.

14. (1.) Every such penalty shall be recoverable by action in a Magistrate's Court, and not otherwise.

(2.) Every such action may be brought in any Magistrate's Court in any industrial district in which the award or industrial agreement is in force or in which the cause of action or any part thereof arose, and shall be heard and determined by a Magistrate only.

(3.) Every such action may be brought at the suit of an Inspector of Awards or at the suit of any party to the award or industrial agreement.

(4.) A claim for two or more penalties against the same defendant may be joined in the same action, although the aggregate amount so claimed may be in excess of the jurisdiction of the Magistrate's Court in an ordinary action for the recovery of money.

(5.) No Court fees shall be payable in respect of any such action.

(6.) No industrial union or industrial association shall be capable of bringing any such action until a resolution to that effect has been passed at a meeting of the members of the union or association in accordance with the rules thereof.

*New paragraph.*

(7.) In every such action the summons shall be served on the defendant at least five clear days before the day of the hearing of the action.

Defendant to give notice of intention to defend.

15. Unless within two clear days before the day of the hearing of any such action the defendant delivers to the plaintiff, or to the Clerk of the Magistrate's Court, a notice of his intention to defend the action, he shall not be entitled to defend the same except with the leave of the Magistrate, and the Magistrate may without hearing evidence give judgment for the plaintiff.

Powers of Magistrate hearing action.

16. In any such action the Magistrate may give judgment for the total amount claimed (not exceeding in respect of any one breach the maximum penalty hereinbefore prescribed), or for any less sum as he thinks fit, or if he is of opinion that the breach proved against



the defendant is trivial or excusable the action may be dismissed, and in any case he may give such judgment as to costs as he thinks fit.

17. (1.) Every penalty recovered in any such action shall be recovered by the plaintiff to the use of the Crown, and the amount thereof shall when received by the plaintiff be paid into the Public Account.

Application of penalties recovered.

(2.) When the plaintiff is any person other than an Inspector of Awards the amount of the penalty shall be paid into Court or to an Inspector of Awards and not to the plaintiff, and shall thereupon be paid by the Clerk of the Court or by the said Inspector into the Public Account.

18. In any such action the Magistrate may, if he thinks fit, before giving judgment, state a case for the opinion of the Court of Arbitration, and may thereupon adjourn the hearing or determination of the action.

Magistrate may state case for Court of Arbitration

*Struck out.*

19. (1.) No appeal shall lie from any judgment in any such action to the Supreme Court or District Court; but an appeal shall lie to the Court of Arbitration in the same cases and in the same manner as in the case of an appeal to the Supreme Court under the Magistrate's Court Act, 1893 1908.

(2.) On any such appeal the Court of Arbitration shall have the same powers as the Supreme Court in respect of an appeal from the Magistrate's Court, and the determination of the Court of Arbitration shall be final.

(3.) In respect of any such appeal sections one hundred and fifty-nine to one hundred and sixty-four, and sections one hundred and sixty-six and one hundred and sixty-seven of the Magistrate's Court Act, 1893 1908, shall be applicable, and shall be read as if the references therein to the Supreme Court were references to the Court of Arbitration.

*New clause.*

19. (1.) No appeal shall lie from any judgment in any such action to the Supreme Court or District Court; but an appeal shall lie to the Court of Arbitration in the same cases and in the same manner as in the case of an appeal to the Supreme Court under the Magistrates' Courts Act, 1908.

Appeal from Magistrate to Court of Arbitration.

(2.) On any such appeal the Court of Arbitration shall have the same powers as the Supreme Court in respect of an appeal from the Magistrate's Court, and the determination of the Court of Arbitration shall, notwithstanding anything in the Declaratory Judgments Act, 1908, be final.

(3.) In respect of any such appeal sections one hundred and fifty-three to one hundred and fifty-eight, and sections one hundred and sixty and one hundred and sixty-one, of the Magistrates' Courts Act, 1908, shall be applicable, and shall be read as if the references therein to the Supreme Court were references to the Court of Arbitration.

20. ~~Subject to the provisions of the next succeeding section,~~ The judgment in any such action shall be enforceable in the same manner as a judgment for debt or damages in the Magistrate's Court, and in no other manner:

Enforcement of judgment.

*Struck out.*

*New proviso.*

Provided that in any application by an Inspector of Awards for an order under section twenty-seven of the Wages Protection and Contractors' Liens Act, 1908, for the attachment of the wages of any defendant, such order may be made in respect of the surplus of his wages above the sum of *two* pounds per week in the case of a married man or of *one* pound in any other case.

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*New provisoes.*

Provided that notwithstanding anything to the contrary in section twenty-seven of the Wages Protection and Contractors' Liens Act, 1908, where application is made in pursuance of any such judgment for the attachment of the wages of any worker an order of attachment may be made in respect of the surplus of his wages above the sum of *two* pounds a week in the case of a worker who is married or is a widower or widow with children, or above the sum of *one* pound a week in the case of any other worker :

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Provided also that for the purpose of any such application for attachment, all wages which may at any time thereafter become due to the judgment debtor by any employer, although they are not yet earned or owing, and whether they become due in respect of any contract of service existing at the time of the application or made at any later time, shall be deemed to be a debt accruing to the judgment debtor within the meaning of the provisions of the Magistrates' Courts Act, 1908, relating to the attachment of debts; and on the making of any order of attachment in respect of such wages the employer shall pay into Court from time to time, as those wages become due and payable, such sum as is sufficient to satisfy the charge imposed thereon by the order of attachment.

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*Struck out.*

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21. (1.) When in any action judgment has been obtained against a defendant under the foregoing provisions of this Act, and the defendant refuses or fails to satisfy the judgment, any Inspector of Awards may at any time, and from time to time, so long as the judgment remains unsatisfied, give notice in writing to any employer by whom the defendant is for the time being employed, requiring the employer to deduct from all wages or other remuneration thereafter becoming payable by him to the defendant in respect of his employment such proportion of the said wages or remuneration as the Inspector thinks fit, not exceeding one-fourth part thereof, until the full amount for which the defendant is liable under the judgment has been so deducted or has been otherwise paid.

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(2.) Any such notice may be given from time to time by the same or different Inspectors of Awards to the successive employers by whom the defendant may be employed at any time while the judgment remains unsatisfied.

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(3.) No such notice shall be invalidated by any error or omission, or defect of form or substance, unless the employer has been thereby misled as to the identity of the defendant.

(4.) Any such notice may be either served personally upon the employer or may be sent to him through the post by a registered letter.

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On notice from Inspector of Awards, amount of judgment to be deducted by employer from moneys due to defendant.

*Struck out.*

5 (5.) At all times after the receipt of any such notice, until it has been withdrawn by an Inspector of Awards or until the total sum named therein has been deducted, the employer receiving the same shall, so often as any money becomes payable by him to the defendant in respect of any employment, deduct therefrom the proportion mentioned in the notice, and pay the amount so deducted to the Inspector of Awards by whom the notice was given or to any other Inspector of Awards.

10 (6.) All moneys which are or ought to have been so deducted shall be a debt due by the employer to the Crown, and may be recovered by action against the employer in a Magistrate's Court or any other Court of competent jurisdiction at the suit of any Inspector of Awards.

15 (7.) All sums so deducted by an employer shall to the extent thereof be deemed to have been paid by the defendant in satisfaction of the judgment.

20 (8.) All moneys to be deducted from any wages or remuneration in pursuance of any such notice shall constitute a charge on such wages or remuneration, and shall prevail over and have priority to any assignment or charge made or created by the defendant, whether before or after the receipt of the notice by his employer, and every such notice shall in all respects have the same force and effect as if no such assignment or charge had been made or created.

25 (9.) Every such notice shall have effect with respect to all wages or remuneration becoming payable to the defendant after the receipt of the notice by the employer, whether the contract of employment in which they are earned existed when that notice was received or not, and whether any moneys were due or accruing due to the defendant at the time of the receipt of the said notice or not.

*New clause.*

35 21A. (1.) Notwithstanding anything hereinbefore contained, any action for the recovery of a penalty under this Act may be brought by an Inspector of Awards in the Court of Arbitration instead of in a Magistrate's Court. Penalties may be recovered in Court of Arbitration.

(2.) The decision of the Court of Arbitration in any such action shall be final.

40 (3.) The procedure in actions so brought in the Court of Arbitration shall be determined by regulations to be made by the Governor in Council in pursuance of this Act. Procedure.

45 (4.) The provisions of sections *fifteen, sixteen, and seventeen* of this Act shall, so far as applicable, extend and apply to any action so brought in the Court of Arbitration, and shall in respect of any such action be read as if every reference in those sections to a Magistrate therein to the Clerk of the Magistrate's Court was a reference to the Registrar of the Court of Arbitration.

50 (5.) A certificate of the judgment of the Court of Arbitration in any such action, under the hand of the Registrar of that Court, specifying the amount payable under the judgment and the persons

by and to whom it is payable, may be filed in any Magistrate's Court or Magistrates' Courts, and the said judgment shall thereupon be deemed to be a judgment duly recovered in an action for a penalty under this Act in the Court or in each of the Courts in which a certificate has been so filed, and shall be enforceable in all respects accordingly. 5

Governor may make regulations as to procedure.

22. The Governor may, by Order in Council, make regulations consistent with this Act prescribing the procedure in actions brought under the foregoing provisions of this Act, and in appeals to the Court of Arbitration. 10

Enforcement of certificate of Court of Arbitration.

23. When an order for the payment of money is made by the Court of Arbitration, and no other provisions for the enforcement of that order are contained in this Act or in the principal Act, a certificate under the hand of the Registrar of the said Court, specifying the amount payable and the ~~person~~ *persons by and* to whom it is payable, may be filed in any Magistrate's Court, and shall thereupon be enforceable in the like manner as a judgment given by the last-mentioned Court in an action for the recovery of a debt. 15

In default of industrial union or association, amount of judgment may be recovered from members thereof.

24. If in any action judgment is given under the foregoing provisions of this Act against an industrial union or industrial association, and is not fully satisfied within one month thereafter, all persons who were members of the said industrial union or industrial association at the time when the judgment was given shall be jointly and severally liable on the judgment in the same manner as if it had been obtained against them personally, and all proceedings in execution or otherwise in pursuance of the judgment may be taken against them or any of them accordingly, save that no person shall be liable under this section for a larger sum than *five pounds*. 20 25

*New clause.*

Unsatisfied judgment not to be a bar to action at suit of another plaintiff.

24A. Judgment recovered at the suit of any person for a penalty under this Act shall not, until and unless it is fully satisfied, be a bar to any other action at the suit of any other plaintiff for the recovery of the same penalty. 30 5

PART III.

CONCILIATION.

35

No further reference of disputes to Conciliation Boards.

25. (1.) After the commencement of this Act no industrial dispute shall be referred to any Board of Conciliation under the principal Act.

(2.) In the case of an industrial dispute which at the commencement of this Act has already been referred to a Board of Conciliation further proceedings for the settlement of that dispute shall be taken in the same manner as if this Act had not been passed. 40

(3.) After the commencement of this Act no person shall be elected or appointed as a member of a Board of Conciliation; and all persons theretofore so elected or appointed shall retire from office on the expiration of the term for which they were elected or appointed. 45

In first instance, disputes to be referred to Councils of Conciliation.

26. (1.) After the commencement of this Act no industrial dispute shall be referred to the Court until it has been first referred to a Council of Conciliation in accordance with the provisions herein-after contained. 50

(2.) The parties to every dispute so referred to a Council of Conciliation shall be industrial unions, industrial associations, or employers.

*Struck out.*

*New clause.*

5 26A. (1.) The Governor may from time to time appoint two persons as Conciliation Commissioners (hereinafter referred to as Commissioners) to exercise the powers and jurisdiction hereinafter set forth.

Appointment of  
Conciliation  
Commissioners.

10 (2.) One of the Commissioners shall be appointed to exercise his functions throughout the North Island of New Zealand, and the other Commissioner shall be appointed to exercise his functions throughout the South Island of New Zealand.

(3.) Each Commissioner shall be appointed for a period of three years, but may be reappointed from time to time, and may at any time be removed from office by the Governor.

15 (4.) Each Commissioner shall receive such salary or other remuneration as is from time to time appropriated by Parliament for that purpose.

20 (5.) If on or before the expiry of the term of office of any Commissioner he is reappointed to that office, all proceedings pending before him or before any Council of Conciliation of which he is a member may be continued and completed as if he had held office continuously.

25 (5A.) If from any cause the Commissioner is unable to act, the Governor may appoint some other person to act in his stead during the continuance of such inability, and while so acting the person so appointed shall have all the powers and jurisdiction of the Commissioner in whose stead he is acting.

30 (6.) If any Commissioner dies or resigns his office, or is removed from office, or if his term of office expires without reappointment, all proceedings then pending before him or before any Council of Conciliation of which he is a member may be continued before his successor or before the said Council, as the case may be, and for this purpose his successor shall be deemed to be a member of that Council, and all the powers and jurisdiction vested in the first-mentioned Commissioner as a member of that Council shall vest in  
35 his successor accordingly.

*New clause.*

40 26A. (1.) The Governor may from time to time appoint such persons as he thinks fit (not exceeding four in number) as Conciliation Commissioners (hereinafter referred to as Commissioners) to exercise the powers and jurisdiction hereinafter set forth.

Appointment of  
Conciliation  
Commissioners.

(2.) Every Commissioner shall be appointed for a period of three years, but may be reappointed from time to time, and may at any time be removed from office by the Governor.

45 (3.) Every Commissioner shall receive such salary or other remuneration as is from time to time appropriated by Parliament for that purpose.

50 (4.) If on or before the expiry of the term of office of any Commissioner he is reappointed to that office, all proceedings pending before him or before any Council of Conciliation of which he is a member may be continued and completed as if he had held office continuously.

- (5.) If from any cause any Commissioner is unable to act, the Governor may appoint some other person to act in his stead during the continuance of such inability, and while so acting the person so appointed shall have all the powers and jurisdiction of the Commissioner in whose stead he is acting. 5
- (6.) If any Commissioner dies or resigns his office, or is removed from office, or if his term of office expires without reappointment, all proceedings then pending before him or before any Council of Conciliation of which he is a member may be continued before his successor or before the said Council, as the case may be, and for this purpose his successor shall be deemed to be a member of that Council, and all the powers and jurisdiction vested in the first-mentioned Commissioner as a member of that Council shall vest in his successor accordingly. 10
- (7.) Where in any case no Commissioner is immediately available to deal with any dispute which has arisen the Governor may appoint some person to act as a Commissioner for the purpose of dealing with such dispute, and while so acting the person so appointed shall have all the powers and jurisdiction of a Commissioner, and any Commissioner so appointed shall be paid such fees as may be fixed by regulation. 15 20

*Struck out.*

Industrial union or association may make application to Magistrate to have dispute referred to Council of Conciliation.

27. (1.) Any industrial union or industrial association which or any employer who is a party to an industrial dispute may make application in writing in the prescribed form to any Magistrate exercising for the time being the jurisdiction of any Magistrate's Court in the industrial district in which the dispute has arisen that the dispute may be heard by a Council of Conciliation to the Commissioner exercising jurisdiction within that part of New Zealand in which the dispute has arisen that the dispute may be heard by a Council of Conciliation. 25 30
- (2.) No such application shall be made by an industrial union or industrial association unless the proposed application has been approved by the members in manner provided by section one hundred and five seven of the principal Act.
- (3.) Two or more industrial unions or industrial associations may join in making a joint application in respect of the same dispute. 35
- (4.) Every application made under this section shall state—
- (a.) The name of the union, or association, or employer making the application (hereinafter termed "the applicants"):
  - (b.) The name of all industrial unions, industrial associations, and employers whom the applicants desire to be made parties to the proceedings (hereinafter termed "the respondents"):
  - (c.) A general statement of the nature of the dispute:
  - (d.) A detailed statement of the claims made by the applicants against the respondents in the matter of the dispute: 40 45
  - (e.) The names of ~~one~~ three persons whom the applicants recommend as assessors to sit with the Magistrate Commissioner in the hearing and settlement of the dispute.

*Struck out.*

(5.) ~~The Every~~ person so recommended as an assessor must be actually and *bona fide* engaged or employed either as an employer or as a worker in the industry, or in any one of the industries, in respect of which the dispute has arisen (whether in the same or in another industrial district).

(6.) ~~The Any~~ person so recommended as an assessor may be one of the parties to the dispute or may be a member of an industrial union or industrial association which is a party to the dispute.

(7.) If the ~~Magistrate Commissioner~~ to whom the application is made is ~~not satisfied that the~~ *of opinion that any* person so recommended is *not* duly qualified in accordance with this Act he shall reject the recommendation, and the applicants shall then recommend some other qualified person in his place. The decision of the ~~Magistrate Commissioner~~ as to the qualification of any person recommended as an assessor shall be final.

(8.) If and as soon as the ~~Magistrate Commissioner~~ is satisfied that ~~a three~~ qualified persons ~~has~~ *have* been so recommended by the applicants, he shall by writing under his hand appoint ~~him as an those~~ *persons as* assessors for the purpose of the said application.

*New clause.*

27. (1.) Any industrial union, industrial association, or employer, being a party to an industrial dispute may make application in the prescribed form to the Commissioner exercising jurisdiction within the industrial district in which the dispute has arisen that the dispute may be heard by a Council of Conciliation.

Industrial union, &c., may apply to have dispute referred to Council of Conciliation.

(2.) No such application shall be made by an industrial union or industrial association unless the proposed application has been approved by the members in manner provided by section one hundred and seven of the principal Act.

(3.) Two or more industrial unions, industrial associations, or employers may join in making a joint application in respect of the same dispute.

(4.) Every application made under this section shall state—

(a.) The name of the union, association, or employer making the application (hereinafter termed “the applicants”):

(b.) The name of all industrial unions, industrial associations, and employers whom the applicants desire to be made parties to the proceedings (hereinafter termed “the respondents”):

(c.) A general statement of the nature of the dispute:

(d.) A detailed statement of the claims made by the applicants against the respondents in the matter of the dispute:

(e.) The names of not more than three persons whom the applicants recommend as assessors to sit with the Commissioner in the hearing and settlement of the dispute.

(5.) Every person so recommended as an assessor must be or have been actually and *bona fide* engaged or employed either as an employer or as a worker in the industry, or in any one of the industries, in respect of which the dispute has arisen (whether in the same or in another industrial district):

Provided that if in any case, by reason of the special circumstances of that case, the Commissioner is of opinion that it is impracticable or inexpedient that all the assessors should be persons so engaged or employed, he may appoint as an assessor, on the recommendation of the applicants, one person who is not engaged or employed in any industry in respect of which the dispute has arisen, together with, where necessary, other persons who are so engaged or employed. 5

(6.) Any person so recommended as an assessor may be one of the parties to the dispute, or may be a member of an industrial union or industrial association which is a party to the dispute. 10

(7.) If the Commissioner to whom the application is made is of opinion that any person so recommended is not duly qualified in accordance with this Act, he shall reject the recommendation, and the applicants shall then recommend some other qualified person in his place. The provisions of subsection two of this section shall not apply to any such substituted recommendation. The decision of the Commissioner as to the qualification of any person recommended as an assessor shall be final. 15

(8.) If and as soon as the Commissioner is satisfied that the proposed number of qualified persons have been so recommended by the applicants, he shall by writing under his hand appoint those persons as assessors for the purpose of the said application. 20

Magistrate to appoint date for hearing dispute, and to cite respondents to attend.

28. So soon as ~~an~~ assessors ~~has~~ have been nominated in manner aforesaid the ~~Magistrate~~ Commissioner shall appoint a day and place for the hearing of the dispute, and shall in the prescribed form and manner cite the respondents to attend at the hearing thereof and in the meantime to recommend ~~some~~ qualified persons for appointment as ~~an~~ assessors at the said hearing, equal in number to the number recommended by the applicants. 25 30

Qualification and appointment of assessor on behalf of respondents.

29. (1.) The foregoing provisions as to the qualification of ~~an~~ assessors recommended by the applicants shall also apply to ~~an~~ assessors recommended by the respondents.

(2.) If ~~the Magistrate is not satisfied that the~~ Commissioner is of opinion that any person so recommended by the respondents is not duly qualified, in accordance with this Act, he shall reject the recommendation and shall require the respondents to recommend some other qualified person, and so also in the case of any such subsequent recommendation, and the decision of the ~~Magistrate~~ Commissioner as to the qualification of any person so recommended shall be final. 35 40

(3.) If and as soon as the ~~Magistrate~~ Commissioner is satisfied that ~~a~~ the required number of qualified persons ~~has~~ have been recommended by the respondents, he shall by writing under his hand appoint ~~him as an~~ the persons so recommended assessors for the purposes of the application. 45

(4.) Unless the respondents recommend ~~some~~ the required number of qualified persons as ~~an~~ assessors at least one clear day before the day appointed for the hearing of the dispute, the ~~Magistrate~~ Commissioner shall forthwith appoint ~~as an assessor such qualified person as he thinks fit~~ on behalf of the respondents such number of qualified persons as is necessary to supply the full number of assessors required. 50



(5.) The recommendation of ~~an~~ assessors by the respondents shall be in writing, signed by or on behalf of the respondents. If they cannot agree in the recommendation of ~~an~~ assessors, separate recommendations may be made by the several respondents, and in that case the ~~Magistrate~~ Commissioner may appoint as ~~an~~ assessors such ~~one~~ of the qualified persons so recommended as he thinks fit.

*Struck out.*

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30. (1.) On the appointment of ~~two~~ assessors in accordance with the foregoing provisions the Magistrate, together with the said assessors, shall be and constitute a Council of Conciliation (hereinafter referred to as "the Council"), having the powers and functions hereinafter provided.

Magistrate and two assessors to constitute Council of Conciliation.

(2.) The assessors shall be entitled to receive out of the Consolidated Fund such fees as are prescribed by regulations.

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*New clause.*

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30. (1.) On the appointment of assessors in accordance with the foregoing provisions the Commissioner, together with the said assessors, shall be and constitute a Council of Conciliation (hereinafter referred to as the Council), having the powers and functions hereinafter provided.

Commissioner and two assessors to constitute Council of Conciliation.

(2.) The assessors shall be entitled to receive out of the Consolidated Fund such fees as are prescribed by regulations.

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(3.) The validity or regularity of the appointment of any assessor by a Commissioner shall not be questioned in any Court or in any proceedings.

Powers and duties of Council with respect to dispute.

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31. (1.) It shall be the duty of the Council to endeavour to bring about a settlement of the dispute, and to this end the Council shall, in such manner as it thinks fit, expeditiously and carefully inquire into the dispute and all matters affecting the merits and the right settlement thereof.

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(2.) In the course of the inquiry the Council shall make all such suggestions and do all such things as it deems right and proper for inducing the parties to come to a fair and amicable settlement of the dispute.

*Struck out.*

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(3.) If the Council is of opinion that the matter of any application is trivial, it may dismiss the application without making any further inquiry or making any recommendation, and may make an order requiring the applicants to pay to the respondents, or to any of them, such costs, not exceeding in the whole the sum of *ten* pounds, as the Council thinks fit. Any costs so ordered to be paid shall constitute a debt recoverable in any Court of competent jurisdiction.

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(4.) The procedure of the Council shall in all respects be absolutely in the discretion of the Council, and the Council shall not be bound to proceed with the inquiry in any formal manner, or formally to sit as a tribunal, or to hear any addresses or evidence save such as the Council deems necessary or desirable.

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(5.) The Council may on the inquiry hear any evidence that it thinks fit, whether such evidence would be legally admissible in a Court of law or not.

(6.) The inquiry shall be either public or private, as the Council thinks fit.

Meetings of Council.

(7.) Meetings of the Council shall be held from time to time at such times and *at such places within the industrial district in which the dispute has arisen* as the *Magistrate Commissioner* appoints. 5

(8.) No such meeting shall be duly constituted unless the *Magistrate Commissioner* is present thereat, but the absence of ~~either or both any or all~~ of the assessors shall not prevent the exercise by the Council of any of its powers or functions.

(9.) The decision ~~of a majority~~ of the ~~members~~ *assessors* present 10 at any meeting shall be deemed to be the decision of the Council.

(10.) A record of the proceedings of every Council of Conciliation shall be made and preserved in manner prescribed by regulations, or, in default of such regulations, in such manner as the *Magistrate Commissioner* thinks fit.

(11.) The *Magistrate Commissioner* shall have the same power of summoning witnesses and of taking evidence on oath, and of requiring the production of books and papers, as if the inquiry were the hearing of a complaint heard before ~~him in the exercise of his jurisdiction~~ as a Justice of the Peace *under the Justices of the Peace Act, 1908*, and all evidence given on oath before the Council shall for all purposes be deemed to have been given in a judicial proceeding before a Court of competent jurisdiction. 20

(12.) No person shall be bound at any inquiry before the Council to give evidence with regard to trade secrets, profits, losses, receipts, 25 or outgoings in his business, or with respect to his financial position, or to produce the books kept by him in connection with his business.

(13.) If any person desires to give any such evidence as is mentioned in the *last preceding* subsection, or to produce any such books as aforesaid, he may, if the *Magistrate Commissioner* thinks fit, do so in the presence of the *Magistrate Commissioner* alone sitting without the assessors; and in such case the *Magistrate Commissioner* shall not disclose to the assessors, or to any other person, the particulars of the evidence so given, or of the books so produced, but may inform the assessors whether or not, in his opinion, any claim 35 or allegation made by the applicants or respondents in the inquiry is substantiated by the said evidence or the said books.

Parties to dispute may appear before Council.

32. (1.) An employer, being a party to the dispute, may appear before the Council in person, or by his agent duly appointed in writing in that behalf, ~~or (subject to the conditions hereinafter expressed) by a barrister or solicitor.~~ 40

(2.) An industrial union or industrial association, being a party to a dispute, may appear before the Council by its chairman or secretary, or by any number of persons (not exceeding three) appointed in writing by the chairman or appointed in such other manner as its rules prescribe, ~~or (subject to the conditions hereinafter expressed) by a barrister or solicitor.~~ 45

(3.) No barrister or solicitor, whether acting under a power of attorney or otherwise, shall be allowed to appear or be heard before the Council ~~unless all the parties to the dispute expressly consent thereto, or unless he is a bona fide employer or worker in the industry to which the dispute relates.~~ 50

33. If any or all of the applicants or respondents fail or refuse to attend or to be represented at the inquiry, the Council shall nevertheless proceed with the inquiry in the same manner so far as practicable as if all the said parties were present or represented.

Council to proceed with inquiry notwithstanding absence of applicants or respondents.

34. The Council may at any time before making its recommendation during the inquiry make an order joining any industrial union, industrial association, or employer as an applicant or respondent, or striking out the name of any industrial union, industrial association, or employer as an applicant or respondent.

Council may join or strike out parties as applicants or respondents.

35. (1.) If a settlement of the dispute is arrived at by the parties in the course of the inquiry, the terms of the settlement shall be set forth as an industrial agreement, which shall be duly executed by all the parties or their attorneys, but not by their representatives, and all

Terms of settlement to form industrial agreement.

*Struck out.*

the provisions of the principal Act and of this Act with respect to industrial agreements shall apply to any such agreement accordingly.

*New subclause.*

(2.) An agreement shall be deemed to be duly executed if it is signed by the employers employing a majority of the workers to be bound by the agreement and by the executive officers of the union of workers.

and all the provisions of the principal Act and of this Act with respect to industrial agreements shall apply to any such agreement accordingly.

*Struck out.*

36. (1.) If within one month after the date fixed pursuant to section twenty-eight hereof for the hearing of a dispute no settlement of the dispute is arrived at by the parties in the course of the inquiry, the Council Commissioner shall make such recommendation for the settlement of the dispute according to the merits and substantial justice of the case as the Council Commissioner thinks fit, and shall state in his recommendation whether the failure of the parties to arrive at a settlement was due to the unreasonableness or unfairness of any of the parties to the dispute.

(2.) Every such recommendation shall state the period during which the proposed settlement should continue in force, being not less than six months or more than three years, and also the date from which it should commence, being not sooner than one month or later than three months after the date of the recommendation.

*New clause.*

36. (1.) After the expiration of one month from the date fixed in pursuance of section twenty-eight hereof for the hearing of the dispute, the Council shall, unless a settlement of the dispute has been sooner arrived at by the parties and embodied in an industrial agreement duly executed in manner aforesaid notify the Clerk of Awards that no award has been arrived at.

If no settlement arrived at, Council to make recommendation as to settlement.

37. If no settlement of the dispute is arrived at by the parties in the course of the inquiry, the Council Commissioner shall, in

Provisional arrangement where no settlement arrived at.

*Struck out.*

addition to making the said recommendation, endeavour to induce the parties to agree to some temporary and provisional arrangement until the dispute can be referred to and determined by the Court of Arbitration; and if no such arrangement can be come to, the Council

*Commissioner shall set forth in its his recommendation the arrangement suggested, and shall indicate whether the failure to accept that arrangement was due to the unreasonableness or unfairness of any of the parties.*

*the Council shall endeavour to induce the parties to agree to some temporary and provisional arrangement until the dispute can be determined by the Court of Arbitration*

*Struck out.*

Recommendation of Council to be submitted to Clerk of Awards and published.

38. (1.) Every recommendation so made by the Council Commissioner shall be in writing, signed by the Magistrate Commissioner and shall be delivered to the Clerk of Awards for the industrial district in which the dispute arose.

(2.) The Clerk of Awards shall forthwith refer the dispute to the Court for settlement, and thereupon the dispute shall be deemed to be before the Court, and shall publish the recommendation of the Commissioner in such manner as is prescribed by regulations.

*New clause.*

Recommendation of Council to be submitted to Clerk of Awards and published.

38. (1.) Every notification so made by the Council or by the assessors shall be in writing, signed by the Commissioner, and shall be delivered to the Clerk of Awards for the industrial district in which the dispute arose.

(2.) The Clerk of Awards shall forthwith refer the dispute to the Court for settlement, and thereupon the dispute shall be deemed to be before the Court.

Parties may bind themselves by memorandum of consent to accept recommendation of Council.

39. (1.) At any time before the Council's recommendation notification is delivered to the Clerk of Awards, all or any of the applicants and respondents may, by memorandum of consent in the prescribed form, executed by themselves or their attorneys (but not by their representatives), and delivered to the Magistrate Clerk of Awards, agree to accept the recommendation of the Council; and in such case the recommendation, when delivered to the Clerk of Awards together with the said memorandum of consent, shall operate and be enforceable in the same manner in all respects as an industrial agreement duly executed and filed by the parties by or on whose behalf the memorandum of consent has been so executed.

(2.) Save as between those parties by or on whose behalf a memorandum of consent has been executed in accordance with this section, the recommendation of the Council shall in no case have any binding force or effect, but shall operate merely as a suggestion for the amicable settlement of the dispute by mutual agreement, and as a public announcement of the opinion of the Council as to the merits of the dispute.

Such memorandum of consent not generally binding.

Council may state case for Court of Arbitration.

40. The Council may at any time before making its recommendation state a case for the advice or opinion of the Court.

*New clause.*

Commissioner may take steps to secure a voluntary settlement of disputes.

40A. The Commissioner may at any time, if he thinks fit, after application has been made to him under section twenty-seven of this Act, and whether assessors have been appointed or not, take such steps as he deems advisable, whether by way of a conference between the applicants and respondents or otherwise, with intent to procure a voluntary settlement of the dispute.

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41. At any time within one month after the delivery of the Council's recommendation to the Clerk of Awards any of the applicants or respondents (other than those by or on whose behalf any memorandum of consent has been executed as aforesaid) may, by application in the prescribed form, delivered to the said Clerk of Awards, refer the dispute to the Court for settlement, and thereupon the dispute shall be deemed to be before the Court.

Parties not bound by memorandum of consent may refer dispute to Court.

42. If no recommendation of the Council is delivered to the Clerk of Awards within one month after the first day appointed by the ~~Magistrate~~ *Commissioner* for the hearing of the dispute under the provisions hereinbefore contained, any of the applicants or respondents may, within two months after the said day (unless the dispute has been settled by an industrial agreement or the application to the Council has been dismissed as trivial under the provisions hereinbefore contained), by application in the prescribed form, delivered to the Clerk of Awards of the industrial district in which the dispute arose, refer the dispute to the Court for settlement, and thereupon the dispute shall be deemed to be before the Court.

On failure, for one month, of Council to make recommendation, parties may refer dispute to Court.

43. (1.) When an industrial dispute has been referred to the Court in pursuance of this Act the Court shall have the same jurisdiction in the matter of that dispute as if the same had been referred to the Court in pursuance of the principal Act after a reference to a Board of Conciliation, and all the provisions of the principal Act shall so far as applicable apply accordingly :

Powers of Court with respect to dispute.

*New proviso.*

Provided that it shall not be necessary on the hearing of any such reference to prove any matter in connection with the dispute which has been admitted before the Commissioner.

(2.) Subject to the provisions of the principal Act as to the joinder or striking-out of parties, the parties to the proceedings before the Court shall be the same as in the proceedings before the Council.

*New clause.*

43A. Sections fifty-one and fifty-two of the principal Act are hereby repealed.

Repeal.

44. The Governor may from time to time by Order in Council make such regulations as he deems necessary for carrying this Part of this Act into effect.

Regulations.

PART IV.

MISCELLANEOUS.

*New clauses.*

44a. The definition of worker in section two of the ~~Industrial Conciliation and Arbitration~~ *principal Act, 1908*, is hereby repealed, and the following substituted :—

Definition of worker.

“ Worker ” means any person of any age of either sex employed by any employer to do any work for hire or reward.

44B. Section two of the principal Act is hereby amended by omitting the words “ employers of workers ” in the definition of “ Industrial matters ” and substituting the words “ employers or workers.”

Definition of “ industrial matters ” amended.

Section 5 of principal Act amended.

45. Section five of the principal Act is hereby amended by omitting the word "two" where it first occurs in that section, and substituting the word "~~seven~~" "three"; and by omitting the word "seven" where it first occurs in that section, and substituting the word "~~twenty-five~~" "fifteen."

5

Section 22 of principal Act amended.

46. Section ~~twenty-two~~ *three* of the principal Act is hereby amended by omitting the words "of the one industry."

Section 66 of principal Act amended.

47. Section sixty-six of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:—

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"(bb.) In so appointing the members and acting members of the Court on the recommendation of the industrial unions, the Governor shall take into account the voting-power of each such union, as determined in manner following, that is to say:—

"(i.) Every union having not more than fifty members shall be deemed to have one vote:

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"(ii.) Every union having more than fifty members shall be deemed to have one vote for every *complete* fifty of its members."

*New proviso.*

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Provided that for the purposes of this section the membership of the union shall be deemed to be the number shown on its last statutory return.

*New clauses.*

Section 92 of principal Act amended.

47A. Section ninety-two of the principal Act is hereby amended by inserting in subsection one thereof the following paragraph:—

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"(aa.) Power to amend the provisions of the award where such amendment is deemed necessary or advisable by reason of any alteration of the circumstances in which the award was made or in the matters to which it relates."

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Section 97 of principal Act amended.

47B. Section ninety-seven of the principal Act is hereby amended by omitting therefrom all words after the words "breach of the award."

Section 100 of principal Act amended.

48. Section one hundred of the principal Act is hereby amended by omitting the words "section seven" in subsection three, and substituting therefor the words "sections seven and eight," and by inserting the following subsections:—

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*New subclauses.*

"(5.) Every person who wilfully makes any false entry in any wages-book or overtime-book is liable to a fine not exceeding *fifty* pounds.

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"(6.) All fines under this section shall be recoverable summarily before a Magistrate in accordance with the Justices of the Peace Act, 1908."

*New clause.*

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Section 109 of principal Act amended.

48A. Section one hundred and nine of the principal Act is hereby amended by adding, after the word "agreement" in subsection one, the words "or who has acted as an assessor."

Recovery by worker of difference between wages paid and wages fixed by award.

49. When any payment of wages has been made to and accepted by a worker at a less rate than that which is fixed by any award or otherwise by law, no action shall be brought by the worker against

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his employer to recover the difference between the wages so actually paid and the wages legally payable, save within three months after the day on which the wages claimed in the action became due and payable.

5 50. Where by any award or industrial agreement the age at which young persons may be employed is limited, or the wages payable to young persons of certain ages are fixed, then, in so far as the employer is concerned, it shall be sufficient proof of the age of any young person desiring employment if he produces to the employer  
10 a certificate of age granted by an official of the Labour Department.

Certificate of Labour Department to be proof of age of young workers.

15 51. (1.) In the case of any factory or shop to which any award relates, a printed or typewritten copy of the award shall at all times be kept affixed in some conspicuous place at or near the entrance of the factory or shop in such a position as to be easily read by the persons employed therein.

Copy of award to be conspicuously placed in factory or shop affected thereby.

(2.) For any breach of the provisions of this section the occupier of the said factory or shop shall be liable to a fine not exceeding five pounds.

20 (3.) In this section the terms "factory" and "shop" have the same meanings as in the Factories Act, 19048, and the Shops and Offices Act, 19048, respectively.

25 52. No person over the age of twenty-five years shall be deemed to be an apprentice within the meaning of any award or industrial agreement, whether made before or after the commencement of this Act.

Apprentices to be not more than twenty-five years.

30 53. (1.) Where an award, whether made before or after the commencement of this Act, provides for the issue of a permit to any worker to accept a wage below that prescribed for ordinary workers in the industry to which the award relates, all applications for such permits shall be made to an Inspector of Factories appointed under the Factories Act, 19048, and exercising his powers as such Inspector within the district in which the award is in force or in any part of that district.

Issue by Inspector of Factories of permits to workers to accept less than ordinary wage.

35 (2.) The Inspector, in granting a permit, shall proceed in manner provided in section ~~thirteen~~ *one hundred and twenty-three* of the ~~Industrial Conciliation and Arbitration Amendment Act, 19058,~~ *principal Act.*

40 (3.) A permit shall be valid only for the period for which it is granted, but may on application be renewed in the same manner in which it was granted.

*New subclause.*

(4.) No permit shall be granted to any person who is not usually employed in the industry to which the award applies.

45 Provided that this section shall not apply in any case where by an award of the Court other provision has been made to control the issue of permits in any particular industry.

50 54. Whenever it is proved to the Court that an industrial agreement (whether made before or after the commencement of this Act) is binding on employers who employ a majority of the workers in the industry to which it relates in the industrial district in

Extension of application of industrial agreement on application by party thereto.

which it was made, the Court may, if it thinks fit on the application of any party to that agreement or of any person bound thereby, make an order extending the operation of that agreement to all employers who are or who at any time after the making of the said order become engaged in the said industry in the said district, and all such employers shall thereupon be deemed to be parties to the said agreement, and shall be bound thereby so long as it remains in force. 5

Validation of informal proceedings, &c.

55. If any thing which is required or authorised to be done by the principal Act or by this Act is not done within the time limited for the doing thereof, or is done informally, the Court of Arbitration may, if it thinks fit, in its discretion, on the application of any person interested, make an order extending the time within which the thing may be done, or validating the thing so informally done. 10

Awards to prevail over contracts of service in cases of conflict.

56. Every award shall prevail over any contract of service or apprenticeship in force on the coming into operation of the award, so far as there is any inconsistency between the award and the contract, and the contract shall thereafter be construed and have effect as if the same had been modified, so far as necessary, in order to conform to the award. 15

*Struck out.*

Court may fix date of Award.

*New clauses.*  
56A. In making its award the Court may, if in its discretion it thinks fit, direct that any provision of the award relating to the rate of wages to be paid shall have effect as from the date of the recommendation of the Commissioner. 20

Provision regarding outside work.

56B. Notwithstanding anything in this Act, an award or industrial agreement shall not affect the employment of any worker who is employed otherwise than for the direct or indirect pecuniary gain of the employer. 25

Court may in certain cases fix a "needs-wage" and an "exertion-wage."

*Struck out.*  
57. (1.) In any award respecting the wages of workers it shall be lawful for the Court, so far as it thinks fit, having regard to the nature of the industry concerned, to provide for the payment to any class of workers of a needs-wage, and also of an exertion-wage, as herein defined. 30

Definition of terms, and standard of work.

(2.) A needs-wage is such wage as the Court deems a fair and reasonable remuneration for work which conforms in amount and quality to a standard fixed by the award. 35

(3.) The standard to be so fixed by the Court shall be work which is equal in amount and quality to that which in the opinion of the Court is capable of being done by a worker of average skill and energy. 40

(4.) An exertion-wage is such wage as the Court deems a fair and reasonable remuneration (in addition to the needs-wage) for any work which in amount or quality exceeds the standard so fixed.

(5.) The exertion-wage may be calculated either as a fixed proportion of the value to the employer of the work so done so far as it exceeds the said standard, or may be calculated in any other manner which the Court thinks fit. 45

(6.) Any award containing such provisions for a needs-wage and an exertion-wage may reserve power to the Court, on the application of any industrial union, industrial association, or employer bound by the award, to vary those provisions from time to time as the Court thinks fit. 50



(7.) The jurisdiction conferred by this section shall not be exercisable except with the antecedent consent of all parties to the reference, given either by themselves, their attorneys, or their representatives.

5 (8.) Nothing in this section shall be so construed as to take away or restrict any power or jurisdiction that would otherwise be possessed by the Court.

*New clauses.*

10 56A. In making its award the Court may, if in its discretion it thinks fit, direct that any provision of the award relating to the rate of wages to be paid shall have effect as from the date of the notification or recommendation of the Council.

Court may fix date of award.

15 56B. No award or industrial agreement made after the passing of this Act shall affect the employment of any worker who is employed otherwise than for the direct or indirect pecuniary gain of the employer :

Provision regarding outside work.

Provided that this section shall not be deemed to exempt any local authority from the operation of any award or industrial agreement.

20 58. When an industrial dispute has been referred to the Court, the Court may, if it considers that for any reason an award ought not to be made in the matter of that dispute, refuse to make an award therein, ~~and may, if it thinks fit, make an order directing any party to the reference to pay costs in respect thereof.~~

Court may in certain cases refuse to make award.

25 59. (1.) Notwithstanding anything in section twenty-one of the principal Act, the cancellation under that section of the registration of an industrial union shall not be prevented by the pendency of any conciliation or arbitration proceedings, if the application for cancellation has been made to the Registrar before the commencement of the  
30 said proceedings.

Cancellation of registration of industrial unions.

(2.) The said section and this section shall extend and apply to conciliation proceedings before a Council of Conciliation under this Act.

*Struck out.*

35 (3.) For the purposes of this section, conciliation proceedings before a Council of Conciliation shall be deemed to have commenced so soon as the ~~Magistrate~~ *Commissioner* has appointed ~~an~~ assessors on the recommendation of the applicants, and shall be deemed to have  
40 ceased so soon as the recommendation of the ~~Council~~ *Commissioner* has been delivered to the Clerk of Awards, or so soon as the application has been dismissed by the Council or the dispute has been settled by an industrial agreement.

45 (4.) For the purposes of the said section and this section arbitration proceedings shall be deemed to be pending and in progress in the interval between the delivery of the ~~Council's~~ *Commissioner's* recommendation to the Clerk of Awards and the ~~expiry of the time within which the dispute may be referred to the Court in accordance with this Act~~ *date fixed by the Court for the hearing of the dispute.*

*New subclauses.*

50 (3.) For the purposes of this section, conciliation proceedings before a Council of Conciliation shall be deemed to have commenced so soon as the Commissioner has appointed assessors on the recommendation of the applicants, and shall be deemed to have ceased so

soon as the notification or recommendation of the Council has been delivered to the Clerk of Awards, or the dispute has been settled by an industrial agreement.

(4.) For the purposes of the said section and this section arbitration proceedings shall be deemed to be pending and in progress so soon as the notification or recommendation of the Council has been delivered to the Clerk of Awards.

*Struck out.*

Assessors to be added to the Court of Arbitration.

60. (1.) When the Court of Arbitration sits to hear any industrial dispute, there shall be added to the Court as constituted under the principal Act two assessors, to be appointed in accordance with this section.

(2.) The said assessors shall be persons who are or have been *bona fide* engaged or employed either as workers or employers in the industry in which the dispute has arisen, whether in the same or in another industrial district.

(3.) The said assessors shall not be parties to the dispute or members or officials of any industrial union or industrial association which is a party to the dispute.

(4.) Neither of the said assessors shall have been a member of any Council of Conciliation to which the dispute has been referred.

(5.) The said assessors shall be appointed by the Judge of the Court of Arbitration on the recommendation of the parties to the dispute.

(6.) One of the said assessors shall be recommended by the parties whose interests are with the employers in the dispute, and the other shall be recommended by the parties whose interests are with the workers in the dispute.

(7.) If default is made by any parties in the recommendation of a qualified person as assessor, the Judge of the Court shall appoint as the assessor of those parties such qualified person as he thinks fit.

(8.) If any assessor resigns or dies, or refuses or fails to act as such, or to continue to act as such, before the award of the Court is made, another qualified assessor shall be appointed in accordance with the foregoing provisions of this section.

(9.) The assessors shall, before entering upon their office, make the same oath or affirmation as is required from the other members of the Court by section seventy-three of the principal Act.

(10.) The assessors shall for all purposes be deemed to be members of the Court in respect of the hearing and determination of the dispute in respect of which they have been appointed.

(11.) So soon as any award has been made by the Court the said assessors shall go out of office, and all subsequent proceedings in respect of the award may be taken without assessors.

(12.) All the powers of the Court or of the Judge thereof as to the joinder of parties, and as to any other matter preliminary to the actual hearing of the dispute and the making of the award, may be exercised without the appointment of assessors.

(13.) The recommendation of assessors shall be made in such manner as is prescribed by regulations made by the Governor in

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Council, or in default of any such regulations, or so far as they do not extend, then in such manner as the Judge of the Court directs.

(14.) The assessors shall be entitled to receive out of the Consolidated Fund such fees as are prescribed by regulations.

5 (15.) No award, order, or other proceedings of the Court shall be questioned or invalidated on the ground of any error or defect in the appointment of assessors under this section.

(16.) Nothing in this section shall apply to any dispute which is referred to the Court before the commencement of this Act.

10 *New clause.*

60A. (1.) The provisions of an award shall continue in force until the expiration of the period for which it was made, notwithstanding that before such expiration any provision is made by any Act that is inconsistent with the award, unless in that Act the contrary is expressly provided.

Where award  
remains in force.

15 (2.) On the expiration of the said period the award, modified in accordance with the law then in force, shall continue in force until a new award is made, and every such new award shall be in accordance with that law, *but the Court in its discretion may, when making a*  
20 *new award, direct that any provision of the new award may date from the expiration of the old award.*