

LABOUR DEPARTMENT BILL

EXPLANATORY NOTE

THIS Bill consolidates the Labour Department Act 1908 and its amendments, and also incorporates the Employment Act 1945.

It provides for the constitution of the Department of Labour and for its functions, including the functions now exercised by the National Employment Service, which is to be merged in the Department of Labour and will cease to exist as a separate Department.

In the Bill the existing provisions have been redrafted in a more modern form where necessary, certain new provisions have been inserted as indicated by a black line in the margin, and some obsolete provisions have been omitted.

The First Schedule sets out a list of the Acts administered by the Department of Labour.

The Second Schedule sets out amendments that are consequential on the changing of the name of the Department from "Department of Labour and Employment" to "Department of Labour", and on the abolition of the office of Director of Employment.

The sources of the clauses of the Bill are shown in the marginal notes, and the comparative table below shows where each repealed enactment appears in the Bill, or, as the case may be, the reason for its omission.

TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS REPEALED

THE LABOUR DEPARTMENT ACT 1908, No. 93 (REPRINT OF STATUTES, VOL. VIII, P. 1175)

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 (1) .....	..... Short Title	9 .....	..... .....
1 (2) .....	..... 17 (2)	10 .....	..... 12
2 .....	..... 2	11 .....	..... 14 (2)
3 .....	..... 3	12 .....	..... 15
4 .....	..... Repealed	13 .....	..... 12
5 .....	..... .....	14 .....	..... Repealed
6 .....	..... 3, 9	15 *
7 .....	..... 12	Schedule .....	..... Third Schedule
8 .....	..... 13		

* See now s. 2 (a) of the Public Holidays Act 1910 (Reprint of Statutes, Vol. III, p. 721), and the Third Schedule to the Banking Act 1908, as substituted by section 8 of the Statutes Amendment Act 1946.

TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS
REPEALED—*continued*

THE PUBLIC HOLIDAYS ACT 1910, No. 71 (REPRINT OF STATUTES, VOL. III, P. 721)

Section of Act	Reason for Omission
3	Repeal and amendment (spent)

THE LABOUR DEPARTMENT AMENDMENT ACT 1936, No. 4

Section of Act	Clause of Bill
1	Short Title
2	4
3	Repealed
4	6
5	7
6	17 (3)
First Schedule	First Schedule
Second Schedule	17 (3)

THE AGRICULTURAL WORKERS ACT 1936, No. 30

Section of Act	Clause of Bill
4 (2)	3

THE SHAREMILKING AGREEMENTS ACT 1937, No. 37

Section of Act	Clause of Bill
8 (2)	3

THE STATUTES AMENDMENT ACT 1939, No. 39

Section of Act	Clause of Bill
39	5

THE ANNUAL HOLIDAYS ACT 1944, No. 5

Section of Act	Clause of Bill
16 (2)	3

THE EMPLOYMENT ACT 1945, No. 9

Section of Act	Clause of Bill
1	Short Title
2 (1) .....	.....
2 (2)	Repealed
3	3
4	6
5 (1)	8
5 (2)	9
5 (3)	10
6	11
7	14
8	12
9	15

TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS
REPEALED—*continued*

THE BUSH WORKERS ACT 1945, No. 27

Section of Act	Clause of Bill
3 (2)	3

THE APPRENTICES ACT 1948, No. 22

Section of Act	Clause of Bill
46 (2)	3
46 (3)	Repeal

THE TENANCY ACT 1948, No. 76

Section of Act	Clause of Bill
4 (2)	3

THE INDUSTRIAL RELATIONS ACT 1949, No. 6

Section of Act	Clause of Bill
10 (2)	3

THE MACHINERY ACT 1950, No. 52

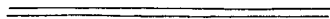
Section of Act	Clause of Bill
41 (2)	3

THE CIVIL LIST ACT 1950, No. 99

Part of Act	Reason for Omission
Part Second Schedule	Repeal

THE FEES AND TRAVELLING ALLOWANCES ACT 1951, No. 79

Part of Act	Clause of Bill
Part Second Schedule	11 (4)



Hon. Mr Sullivan

LABOUR DEPARTMENT

ANALYSIS

Title.	11. Advisory Councils and Advisory Committees.
1. Short Title and commencement.	12. Regulations.
2. Interpretation.	13. Information obtained not to be divulged.
3. Department of Labour.	14. Offences and penalties.
4. Secretary of Labour.	15. Annual report to be presented to Parliament.
5. Assistant Secretaries of Labour.	16. Amendments consequential on merging of National Employment Service with Department of Labour.
6. Other officers.	17. Repeals and savings.
7. Delegation of Minister's powers.	Schedules.
8. Functions of Department.	
9. Duties of Department.	
10. Powers of Department.	

A BILL INTITULED

AN ACT to consolidate and amend certain enactments relating to the Department of Labour. Title.

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

1. (1) This Act may be cited as the Labour Department Act 1954. Short Title and commencement.

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

2. In this Act, unless the context otherwise requires— Interpretation.
"Department" means the Department of Labour 1908, No. 93,
constituted under this Act: s. 2

“Employer” means a person employing any worker or workers; and includes any manager or other person acting on behalf of an employer:

“Minister” means the Minister of Labour; and includes any person for the time being authorized to exercise or perform any of the powers, duties, or functions of the Minister:

“Person” includes a corporation sole; and also includes a body of persons, whether incorporated or not:

“Secretary” means the Secretary of Labour appointed for the purposes of this Act; and includes any person for the time being authorized to exercise or perform any of the powers, duties, or functions of the Secretary:

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

Department
of Labour.
1908, No. 93,
s. 3
1945, No. 9,
s. 3

3. There shall be a Department of State to be called the Department of Labour, which, under the control of the Minister, shall be charged with the administration of this Act and of the Acts specified in the *First* Schedule to this Act and with such other functions as may be lawfully conferred on it.

Secretary of
Labour.
1936, No. 4,
s. 2
See Reprint
of Statutes,
Vol. VII,
p. 522

4. (1) There shall from time to time be appointed under the Public Service Act 1912 a Secretary of Labour, who shall be the administrative head of the Department.

(2) All Inspectors, Registrars, Clerks, and other officers and employees of the Department, in the exercise and performance of the powers, duties, and functions conferred or imposed on them by any of the Acts administered by the Department, shall act under the direction of the Secretary, and the Secretary may in any case exercise or perform any of the powers, duties, and functions of any such officer as if he personally held the office of that officer.

Assistant
Secretaries
of Labour.
1939, No. 39,
s. 39

5. (1) There shall from time to time be appointed under the Public Service Act 1912 such number of Assistant Secretaries of Labour as may be deemed necessary. The Assistant Secretaries shall, under the control of the Secretary, perform such general official duties as they are called upon to perform by the Secretary.

(2) On the occurrence from any cause of a vacancy in the office of Secretary (whether by reason of death, resignation, or otherwise), and in case of the absence from duty of the Secretary (from whatever cause arising), and so long as any such vacancy or absence continues, each Assistant Secretary shall have and may exercise such of the powers, duties, and functions of the Secretary as relate to the general official duties that he has been called upon to perform.

10 (3) The fact that an Assistant Secretary exercises or performs any power, duty, or function of the Secretary shall be conclusive evidence of his authority to do so.

(4) For the purposes of this section the powers, duties, and functions of the Secretary shall be deemed to include such of the powers of the Minister as the Secretary may for the time being be authorized to exercise pursuant to a delegation under section *seven* of this Act.

20 6. There may from time to time be appointed under the Public Service Act 1912 such other officers and employees of the Department as may be deemed necessary.

Other officers.
1936, No. 4, s. 4
1945, No. 9, s. 4
See Reprint
of Statutes,
Vol. VII,
p. 522

7. (1) The Minister may from time to time, by writing under his hand, delegate to the Secretary all or any of the powers exercisable by him under this Act or under any other Act.

Delegation of
Minister's
powers.
1936, No. 4, s. 5

25 (2) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

30 (3) Any such delegation may be made subject to such restrictions and conditions as the Minister thinks fit, and may be made either generally or in relation to any particular case.

(4) Every such delegation shall, unless and until revoked, continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister, and, in the event of the Secretary to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Secretary, or,

if there is no Secretary in office, to the person for the time being authorized under section *five* of this Act or otherwise to exercise the powers of the Secretary.

(5) The fact that the Secretary or any person acting for the Secretary exercises any power of the Minister shall, in the absence of proof to the contrary, be sufficient evidence that he has been authorized to do so by a delegation under this section. 5

Functions of
Department.
1945, No. 9,
s. 5 (1)

8. The general functions of the Department shall be to promote and maintain full employment, safe and healthy working conditions, good relationships between employers and workers, and the proper fulfilment by employers, workers, and other persons of obligations placed upon them by awards and industrial agreements and by the Acts, regulations, and orders administered by the Department. 10 15

Duties of
Department.
1908, No. 93,
s. 6
1945, No. 9,
s. 5 (2)

9. The general duties of the Department shall be—

- (a) To provide a complete employment service for the purpose of placing workers in employment, assisting employers to provide employment, assisting persons in all sections of the community to find better or more suitable employment (whether in professional technical, supervisory, or any other capacities), and assisting persons who require occupational readjustment or training or other assistance to enable them to continue or resume full time employment: 20 25
- (b) To make inspections and to take any other necessary action for the purpose of ensuring that there is fulfilment of the obligations placed upon any employer, worker, or other person under any award or industrial agreement, or under any of the Acts, regulations, and orders administered by the Department: 30 35
- (c) To maintain such registers of shops, offices, factories, and places of work generally as may be deemed necessary for the fulfilment of the Department's functions:
- (d) To collect and publish information relating to employment and unemployment, and wages, and such other matters relevant to the functions of the Department as the Minister may from time to time require: 40

(e) To make surveys and forecasts of the classes of employment from time to time required or available or likely to be required or available, and to do all things deemed necessary or expedient for the purpose of placing suitable and qualified persons in such employment on a voluntary basis:

(f) Generally to do all things deemed necessary or expedient for the purpose of promoting and maintaining full employment, whether by facilitating the better location or availability of employment in relation to the labour available or otherwise howsoever.

10. (1) The Department may exercise all such powers as are reasonably necessary for the effective performance of the Department's functions and duties.

Powers of
Department.
1945, No. 9,
s. 5 (3)

(2) Without limiting the general provisions of subsection *one* of this section, it is hereby declared that the Department may—

(a) Establish, maintain, and operate hostels and other residential or boarding establishments for workers:

(b) Provide a home aid service, by making the services of workers employed in the Department available for domestic and other work in cases of emergency and in other special circumstances:

(c) Make such arrangements for the selection, transport, and accommodation of immigrants as the Minister may from time to time require:

(d) Make such charges as may be fixed by the Minister for any services or accommodation provided for any person by the Department:

Provided that no charge shall be made for any services provided under paragraph (a) of section *nine* of this Act.

11. (1) For the purpose of assisting in the administration of this Act the Minister may from time to time appoint such number of Advisory Councils and Advisory Committees as he thinks fit.

Advisory
Councils and
Advisory
Committees.
1945, No. 9,
s. 6
1951, No. 79,
s. 10 (1)

(2) The members of any Advisory Council or Advisory Committee shall hold office during the pleasure of the Minister.

(3) Every Advisory Council or Advisory Committee appointed under this section shall have such functions in relation to this Act as the Minister may from time to time determine.

(4) There may be paid out of money appropriated by Parliament for the purpose to the members of any Advisory Council or Advisory Committee appointed under this section remuneration by way of fees, salary, 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 any such Council or Committee were a statutory Board within the meaning of that Act.

1951, No. 79

Regulations.
1908, No. 93,
ss. 7, 10, 13
1945, No. 9,
s. 8

12. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as in his opinion are necessary for the purpose of giving full effect to this Act.

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

(a) Obtaining any information or particulars that may be required for the purposes of this Act, whether in relation to labour requirements or retrenchments, movements of labour, subsidies, or otherwise:

(b) Prescribing penalties for offences against the regulations, not exceeding the penalties prescribed by section *fourteen* of this Act.

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

Information
obtained not
to be divulged.
1908, No. 93,
s. 8

13. (1) No information obtained by the Minister or by any officer or employee of the Department under any of the powers conferred by this Act or by any regulations made under this Act shall be communicated to any person or made use of except for the purposes of this Act.

(2) Every person who acts in contravention of this section commits an offence against this Act.

14. (1) Every person commits an offence against this Act who, for the purpose of obtaining any payment or benefit under this Act for himself or for any other person, makes any false statement to or otherwise misleads or attempts to mislead the Minister or any officer or employee of the Department or any other person whomsoever.

Offences and penalties.
1908, No. 93,
s. 11
1945, No. 9,
s. 7

(2) Every person who commits an offence against this Act, or who commits an offence against any regulations made under this Act for which no other penalty is prescribed, shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months.

15. (1) The Minister shall as soon as practicable after the end of each financial year cause to be prepared a report on the operations of the Department for that year.

Annual report to be presented to Parliament.
1908, No. 93,
s. 12
1945, No. 9,
s. 9

(2) Every such report, together with the statements of accounts to be prepared by the Department under section one hundred and three of the Public Revenues Act 1953, shall be laid before Parliament within twenty-eight days after the date of its receipt by the Minister if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

1953, No. 73

16. (1) All references to the Minister of Employment in any Act, regulation, or other enactment, or in any contract, agreement, deed, instrument, application, licence, notice, or other document whatsoever shall, unless the context otherwise requires, be hereafter read as references to the Minister of Labour.

Amendments consequential on merging of National Employment Service with Department of Labour.

(2) All references to the National Employment Service in any Act, regulation, or other enactment, or in any contract, agreement, deed, instrument, application, licence, notice, or other document whatsoever shall, unless the context otherwise requires, be hereafter read as references to the Department of Labour.

(3) All references to the Director of Employment in any Act, regulation, or other enactment, or in any contract, agreement, deed, instrument, application, licence, notice, or other document whatsoever shall, unless the context otherwise requires, be hereafter read as references to the Secretary of Labour.

(4) The enactments specified in the *Second* Schedule to this Act are hereby consequentially amended in the manner indicated in that Schedule.

Repeals and savings.
See Reprint of Statutes, Vol. VIII, p. 568

17. (1) The enactments specified in the *Third* Schedule to this Act are hereby repealed. 5

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former 10 provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the 15 corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

1936, No. 4

See Reprint of Statutes, Vol. V, p. 565

(3) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the 20 repeal of section six of the Labour Department Amendment Act 1936 shall not affect the amendment made by that section to section nineteen of the Master and Apprentice Act 1908.

SCHEDULES

FIRST SCHEDULE

Section 3

ACTS ADMINISTERED BY THE DEPARTMENT OF LABOUR

- The Master and Apprentice Act 1908 (Reprint of Statutes, Vol. V, p. 559).
 The Servants' Registry Offices Act 1908 (Reprint of Statutes, Vol. VIII, p. 1249).
 The Labour Disputes Investigation Act 1913 (Reprint of Statutes, Vol. III, p. 1017).
 The Shearers' Accommodation Act 1919 (Reprint of Statutes, Vol. I, p. 151).
 The Shops and Offices Act 1921-22 (Reprinted 1943, p. 346).
 The Workers' Compensation Act 1922 (Reprint of Statutes, Vol. V, p. 597).
 The Scaffolding and Excavation Act 1922 (Reprint of Statutes, Vol. VIII, p. 1241).
 The Weights and Measures Act 1925 (Reprint of Statutes, Vol. VIII, p. 1145).
 The Agricultural Workers Act 1936 (No. 30).
 The Sharemilking Agreements Act 1937 (No. 37).
 The Wages Protection and Contractors' Liens Act 1939 (No. 27).
 The Annual Holidays Act 1944 (No. 5).
 The Bush Workers Act 1945 (No. 27).
 The Minimum Wage Act 1945 (No. 44).
 The Factories Act 1946 (No. 43).
 The Apprentices Act 1948 (No. 22).
 The Tenancy Act 1948 (No. 76).
 The Industrial Relations Act 1949 (No. 6).
 The Military Training Act 1949 (No. 23).
 The Machinery Act 1950 (No. 52).
 The Industrial Conciliation and Arbitration Act 1954 (No.).

SECOND SCHEDULE

Section 16 (4)

CONSEQUENTIAL AMENDMENTS

Title of Act	Nature of Amendment
1908, No. 78— The Immigration Restriction Act 1908 (Reprint of Statutes, Vol. III, p. 893)	By omitting from the definition of the term "Collector" in section 2 (as amended by section 3 (1) of the Immigration Restriction Amendment Act 1951) the words "and Employment". By omitting from the definition of the term "Officer of Customs" in section 2 (as inserted by section 3 (2) of the Immigration Restriction Amendment Act 1951) the words "and Employment".

SECOND SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS—*continued*

Title of Act	Nature of Amendment
<p>1949, No. 23— The Military Training Act 1949</p>	<p>By repealing the definition of the term “Director” in section 2 (1).</p> <p>By repealing the definition of the term “Minister” in section 2 (1), and substituting the following definition: “ ‘Minister’ means the Minister of Labour:”</p> <p>By inserting in section 2 (1), after the definition of the term “registered conscientious objector”, the following definition: “ ‘Secretary’ means the Secretary of Labour appointed for the purposes of the Labour Department Act 1954; and includes any person for the time being authorized to exercise or perform any of the powers, duties, or functions of the Secretary:”</p> <p>By omitting the word “Director” wherever it occurs in sections 2 (5) and (6), 9 (2), (3), (4), (5), and (7), 10, 11 (4) and (5), 13 (2), 16, 19 (2), 21 (2), 23 (1) and (2), 25 (1) and (4), 28 (5) <i>and</i> (6), 29 (1) and (2), 33, 34 (4), 35 (1), (2), and (4), 38 (1), 42 (2) and (3), 45 (2), 46 (1), (2), and (3), 47 (1), (2), (5), and (6), 48 (1), 49, 54, 56 (1) (b) and (c), and 57 (3) and (4), and substituting in each case the word “Secretary”.</p> <p>By omitting the words “and Employment” from sections 9 (3), 15 (5), 25 (2), 42 (2), and 49.</p> <p>By repealing paragraph (d) of section 11 (2), and substituting the following paragraph: “(d) The Secretary.”</p> <p>By omitting from section 29 (2) the word “Director’s”, and substituting the word “Secretary’s”.</p> <p>By omitting from paragraphs (a) and (b) of section 56 (3) the words “Director of Employment”, and substituting in each case the word “Secretary”.</p>
<p>1951, No. 13— The Military Training Amendment Act 1951</p>	<p>By omitting from section 3 (3) the word “Director”, and substituting the word “Secretary”.</p> <p>By repealing subsection (1) of section 4.</p>

THIRD SCHEDULE

Section 17 (1)

ENACTMENTS REPEALED

- 1908, No. 93—
The Labour Department Act 1908 (Reprint of Statutes, Vol. VIII, p. 1175).
- 1910, No. 71—
The Public Holidays Act 1910: Section 3 (Reprint of Statutes, Vol. III, p. 721).
- 1936, No. 4—
The Labour Department Amendment Act 1936.
- 1936, No. 30—
The Agricultural Workers Act 1936: Subsection (2) of section 4.
- 1937, No. 37—
The Sharemilking Agreements Act 1937: Subsection (2) of section 8.
- 1939, No. 39—
The Statutes Amendment Act 1939: Section 39.
- 1944, No. 5—
The Annual Holidays Act 1944: Subsection (2) of section 16.
- 1945, No. 9—
The Employment Act 1945.
- 1945, No. 27—
The Bush Workers Act 1945: Subsection (2) of section 3.
- 1948, No. 22—
The Apprentices Act 1948: Subsections (2) and (3) of section 46.
- 1948, No. 76—
The Tenancy Act 1948: Subsection (2) of section 4.
- 1949, No. 6—
The Industrial Relations Act 1949: Subsection (2) of section 10.
- 1950, No. 52—
The Machinery Act 1950: Subsection (2) of section 41.
- 1950, No. 99—
The Civil List Act 1950: So much of the Second Schedule as relates to the Employment Act 1945.
- 1951, No. 79—
The Fees and Travelling Allowances Act 1951: So much of the Second Schedule as relates to the Employment Act 1945.