

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 8 August 1979.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Bolger

REMUNERATION

ANALYSIS

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A BILL INTITULED

An Act to authorise the making of regulations for the purpose of promoting stability in rates of remuneration and other conditions of employment in New Zealand and to repeal
5 **the General Wage Orders Act 1977**

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

10 **1. Short Title**—This Act may be cited as the Remuneration Act 1979.

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

“Conditions of employment” include the conditions on which any office is held:

15 “Instrument” means any award, agreement, determination, or decision (whether that award, agreement, determination, or decision is recorded in writing or not or in any regulation or Order in Council) that

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fixes rates of remuneration, or other conditions of employment, of an employee or holder of an office, or of more than one employee or holder of an office:

“Remuneration” means salary or wages and all other payments of any kind whatsoever payable to any employee, or to the holder of any office, for his services; and includes any payment by way of expenses, refunds, or allowances to meet expenditure already incurred: 5

“Remuneration regulations” means regulations made under this Act. 10

3. Act to bind the Crown—This Act binds the Crown.

4. Remuneration regulations—(1) The Governor-General may from time to time, by Order in Council, make such regulations (in this Act referred to as remuneration regulations) as appear to him to be necessary or expedient for the purpose of promoting stability in rates of remuneration and other conditions of employment in New Zealand. 15

(2) Without limiting the general power conferred by subsection (1) of this section, it is hereby declared that regulations may be made under this section for all or any of the following purposes: 20

- (a) Regulating, or providing for the regulation of, rates of remuneration or levels of remuneration, or both:
- (b) Regulating, or providing for the regulation of, conditions of employment: 25
- (c) Nullifying or amending, or providing for the nullification or amendment of, in whole or in part, any instrument, whether or not it is filed, registered, or approved under any Act: 30
- (d) Providing for the appointment of officers and committees and other bodies (including tribunals), and defining their functions and powers:
- (e) Providing for the exemption of any persons or classes of persons from any regulations made under this section: 35
- (f) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this section, and the amount of the fines that may be imposed in respect of any such offences, which 40
fines shall be an amount not exceeding \$1,000 and,

where the offence is a continuing one, a further amount not exceeding \$20 for every day or part of a day during which the offence has continued:

- 5 (g) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.
- (3) Any regulations made under this section may empower or provide for empowering such authorities, tribunals, persons, or classes of persons as may be specified in the
10 regulations to make orders for any of the purposes for which regulations are authorised by this section to be made, and may contain such incidental and supplementary provisions as appear to the Governor-General in Council to be necessary or expedient for the purposes of the regulations.
- 15 (4) Any regulations made under this section may be of general application or may apply only in respect of the persons or classes of persons, or the remuneration or conditions of employment or the classes of remuneration or conditions of employment, specified in the regulations.
- 20 (5) Any provision which is made by or pursuant to regulations made under this section and which fixes rates or levels of remuneration shall come into force on a date to be specified in that behalf in the regulations, whether that date is before, on, or after the date on which the regulations
25 are made.
- (6) Where any regulations made under this section affect or conflict with any provision of any Act specified in the First Schedule to this Act or of any regulations or Order in Council made under any such Act, being a provision—
30 (a) Relating to rates of remuneration or other conditions of employment; or
(b) Relating to procedures for fixing rates of remuneration or other conditions of employment; or
35 (c) Specifying the body or person by which remuneration or conditions of employment are to be determined,—
the regulations made under this section shall prevail.
- (7) All regulations made under this section shall be laid before Parliament as soon as practicable after they are made.
- 40 **5. General increases**—(1) Remuneration regulations may effect or provide for a general increase in rates of remuneration determined by awards and collective agreements by amending, or providing for the amendment of, the provisions

of all awards and collective agreements for the time being in force so far as those provisions determine the rates of remuneration of workers.

(2) Nothing in subsection (1) of this section shall limit the provisions of section 4 of this Act, including, in particular, the right to limit or modify, or to provide for the limitation or modification of,— 5

- (a) The application of any such general increase; or
- (b) The extent (if any) to which rates of remuneration not determined by awards or collective agreements may be affected by any such general increase. 10

(3) In this section, unless the context otherwise requires,—
 “Award” means an award made under the Industrial Relations Act 1973 or any corresponding former Act; and includes an award made under section 32 (3) of the Agricultural Workers Act 1977 and an agreement deemed to be an award by section 34 (2) of that Act. 15

“Collective agreement” means a collective agreement within the meaning of the Industrial Relations Act 1973; and includes an agreement filed with the Registrar of the Arbitration Court under section 141 of that Act. 20

“Remuneration” means salary or wages and all other payments of any kind whatsoever prescribed in awards and collective agreements. 25

6. Decisions of Courts and Tribunals—(1) No remuneration regulations and nothing done pursuant to any remuneration regulations shall *(reduce, or provide for the reduction of, any rate of remuneration, or abrogate, or provide for the abrogation of, any condition of employment, determined)* cancel or reduce, or provide for the cancellation or reduction of, any rate of remuneration, or abrogate, or provide for the abrogation of, any condition of employment, decided on the merits by (and not merely embodied in an agreement filed or registered with or approved by)— 30

- (a) The Arbitration Court; or
- (b) The Agricultural Tribunal; or
- (c) The Aircrew Industrial Tribunal; or
- (d) The Coal Mines Council; or 40
- (e) The Government Service Tribunal; or
- (f) The Government Railways Industrial Tribunal; or
- (g) The Higher Salaries Commission; or
- (h) The Hospital Service Tribunal; or
- (i) The Police Staff Tribunal; or 45
- (j) The Public Sector Tribunal; or
- (k) The Waterfront Industry Tribunal.

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(1A) Where the Arbitration Court, pursuant to section 84 (3) of the Industrial Relations Act 1973, incorporates in an award the terms or any of the terms of a memorandum of partial settlement, no term so incorporated shall be treated, for the purposes of subsection (1) of this section, as having been decided on the merits by the Arbitration Court.

(1B) Where the Waterfront Industry Tribunal, pursuant to section 21 of the Waterfront Industry Act 1976, incorporates in a principal order or other order the terms or any of the terms agreed between the parties to the application for the order, no term so incorporated shall be treated, for the purposes of subsection (1) of this section, as having been decided on the merits by the Waterfront Industry Tribunal.

(1C) Without limiting subsections (1A) and (1B) of this section, where any of the bodies mentioned in paragraphs (a) to (k) of subsection (1) of this section incorporates in an award, order, determination, or other decision the terms or any of the terms agreed between the parties to the award, order, determination, or decision or to the application for the award, order, determination, or decision, no term so incorporated shall be treated, for the purposes of subsection (1) of this section, as having been decided on the merits by that body.

(2) Nothing in subsection (1) of this section shall apply in relation to any rate of remuneration or condition of employment determined, directly or indirectly, by a decision made under section 97 (1) of the Industrial Relations Act 1973, or section 16 (a) or section 16 (b) of the Waterfront Industry Act 1976, or section 43 of the Aircrew Industrial Tribunal Act 1971, or any similar provision.

(3) Nothing in subsection (1) of this section shall absolve any of the bodies mentioned in paragraphs (a) to (k) of that subsection from the obligation to observe the provisions of any remuneration regulations.

7. Judicial and other statutory officers—No remuneration regulations and nothing done by or pursuant to any remuneration regulations shall affect the salary of—

- (a) A Judge of the Court of Appeal or a Judge of the Supreme Court:
(b) A Judge of the Arbitration Court:
(c) A Judge of the Compensation Court:

- (d) A Magistrate:
- (e) A Judge of the Maori Land Court:
- (f) The Controller and Auditor-General:
- (g) An Ombudsman.

8. Offences—(1) Every offence against any remuneration regulations shall be punishable on summary conviction. 5

(2) Any offence against any remuneration regulations committed by a servant or agent in the course of his employment shall be deemed to have been also committed by his employer or principal unless the employer or principal proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence. 10

(3) No provision of any remuneration regulations shall make any person liable to be prosecuted for any act committed before the date on which the regulations are published. 15

9. Repeal and saving—(1) The General Wage Orders Act 1977 is hereby repealed.

(2) The repeal effected by subsection (1) of this section shall not affect any general order made before the commencement of this Act under the General Wage Orders Act 1977. 20

10. Consequential amendments—(1) The enactments specified in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule. 25

(2) The Wage Adjustment Regulations 1974 are hereby amended by omitting from regulation 6 (4) (as added by regulation 3 of the Wage Adjustment Regulations 1974, Amendment No. 16) the words “order made under the General Wage Orders Act 1977”, and substituting the words “increase in rates of remuneration determined by awards and collective agreements, being *(an increase)* a general increase which is of the kind described in section 5 of the Remuneration Act 1979 and which is effected by or pursuant to regulations made under section 4 of the Remuneration Act 1979,”. 30

(3) The amendment by subsection (2) of this section of the Wage Adjustment Regulations 1974 shall be without prejudice to the power to amend or revoke those regulations under the Economic Stabilisation Act 1948. 35 40

SCHEDULES

FIRST SCHEDULE

Section 4 (6)

ACTS THAT MAY BE AFFECTED PURSUANT TO SECTION 4 (6) OF THIS ACT BY REMUNERATION REGULATIONS

- The Agricultural Workers Act 1977.
- The Aircrew Industrial Tribunal Act 1971.
- The Coal Mines Act 1925.
- The Economic Stabilisation Act 1948.
- The Education Act 1964.
- The Government Railways Act 1949.
- The Higher Salaries Commission Act 1977.
- The Hospitals Act 1977.
- The Industrial Relations Act 1973.
- The Police Act 1958.
- The Post Office Act 1959.
- The Shipping and Seamen Act 1952.
- The State Services Act 1962.
- The State Services Conditions of Employment Act 1977.
- The Waterfront Industry Act 1976.

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SECOND SCHEDULE

Section 10 (1)

ENACTMENTS AMENDED

Act Amended	Amendment
1973, No. 19—The Industrial Relations Act 1973 (Reprinted 1977, Vol. 4, p. 3405)	By repealing subsection (3) of section 53A (as inserted by section 3 of the Industrial Relations Amendment Act 1977).
1976, No. 72—The Waterfront Industry Act 1976	By omitting from section 16 (e) (as amended by section 6 (3) (a) of the Industrial Relations Amendment Act 1977) the words “order increasing or reducing rates of remuneration made by the Arbitration Court or any cost of living order made or deemed to be made by that Court”, and substituting the words “increase in rates of remuneration determined by awards and collective agreements, being a general increase effected by or pursuant to regulations made under <u>section 4</u> of the Remuneration Act 1979”.

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Act Amended	Amendment
1977, No. 95—The State Services Conditions of Employment Act 1977	<p>By repealing subsections (4) and (5) of section 31, and substituting the following subsections:</p> <p>“(4) Notwithstanding anything in subsections (1) to (3) of this section, where any general increase in rates of remuneration determined by awards and collective agreements is effected by or pursuant to regulations made under <u>section 4</u> of the Remuneration Act 1979, interim adjustments shall be made to give effect to that general increase.</p> <p>“(5) Interim adjustments made pursuant to <u>subsection (4)</u> of this section shall be made in the manner indicated by the terms of the general increase as if the remuneration determined under this Act were fixed by an award.”</p> <p>By omitting from section 32 (9) the words “order of the Arbitration Court made under the General Wage Orders Act 1977”, and substituting the words “increase effected by or pursuant to regulations made under <u>section 4</u> of the Remuneration Act 1979”.</p>
1977, No. 110—The Higher Salaries Commission Act 1977	<p>By repealing section 23, and substituting the following section:</p> <p>“23. Application of general increases— Notwithstanding anything in section 19 (2) of this Act, where any general increase in rates of remuneration determined by awards and collective agreements is effected by or pursuant to regulations made under <u>section 4</u> of the Remuneration Act 1979, the Commission shall determine an interim adjustment applying the general increase to the salaries of the persons to whom section 12 (1) (a) of this Act applies as if those salaries were remuneration payable under an award.</p> <p>“(2) In determining an interim adjustment pursuant to <u>subsection (1)</u> of this section, the Commission shall have regard to the terms of the general increase and to the way in which the general increase applies, or is being applied, to the State services pursuant to the State Services Conditions of Employment Act 1977.”</p>

New

SECOND SCHEDULE		Section 10 (1)
ENACTMENTS AMENDMENT		
Act Amended	Amendment	
<p>1973, No. 19—The Industrial Relations Act 1973 (Reprinted 1977, Vol. 4, p. 3405)</p> <p>1976, No. 72—The Waterfront Industry Act 1976</p>	<p>By repealing subsection (3) of section 52A (as inserted by section 3 of the Industrial Relations Amendment Act 1977).</p> <p>By repealing paragraph (e) of section 16, and substituting the following paragraph: “(e) To amend the provisions of the principal order for the purposes of applying, subject to such variations as may be determined by the Tribunal, any general increase in rates of remuneration determined by awards and collective agreements, being a general increase which is of the kind described in section 5 of the Remuneration Act 1979 and which is effected by or pursuant to regulations made under section 4 of that Act.”</p>	
<p>1977, No. 95—The State Services Conditions of Employment Act 1977</p>	<p>By repealing subsections (4) and (5) of section 31, and substituting the following subsections: “(4) Notwithstanding anything in subsections (1) to (3) of this section, where any general increase in rates of remuneration determined by awards and collective agreements, being a general increase of the kind described in section 5 of the Remuneration Act 1979, is effected by or pursuant to regulations made under section 4 of that Act, interim adjustments shall be made to give effect to that general increase. “(5) Interim adjustments made pursuant to subsection (4) of this section shall be made in the manner indicated by the terms of the general increase as if the remuneration determined under this Act were fixed by an award.”</p> <p>By repealing subsection (9) of section 32, and substituting the following subsection: “(9) After a review under section 31 of this Act is completed and following any general increase in rates of remuneration determined by awards and collective agreements, being a general increase which</p>	

New

SECOND SCHEDULE— <i>continued</i>	
ENACTMENTS AMENDMENT— <i>continued</i>	
Act Amended	Amendment
1977, No. 110—The Higher Salaries Commission Act 1977	<p>is of the kind described in <u>section 5</u> of the Remuneration Act 1979 and which is effected by or pursuant to regulations made under <u>section 4</u> of that Act, each employing authority shall, before making any adjustment, consult with the service organisations representing the members of the occupational classes to whom the adjustment would be applied.”</p> <p>By repealing section 23, and substituting the following section:</p> <p>“23. Application of general increases—</p> <p>(1) Notwithstanding anything in section 19 (2) of this Act, where any general increase in rates of remuneration determined by awards and collective agreements, being a general increase of the kind described in <u>section 5</u> of the Remuneration Act 1979, is effected by or pursuant to regulations made under <u>section 4</u> of that Act, the Commission shall determine an interim adjustment applying the general increase to the salaries of the persons to whom section 12 (1) (a) of this Act applies as if those salaries were remuneration payable under an award.</p> <p>“(2) In determining an interim adjustment pursuant to <u>subsection (1)</u> of this section, the Commission shall have regard to the terms of the general increase and to the way in which the general increase applies, or is being applied, to the State services pursuant to the State Services Conditions of Employment Act 1977.”</p>