

**NEW ZEALAND**  
**INDUSTRIAL AND LABOUR ORDINANCE 1964**  
**1964, No. 1**  
**ANALYSIS**

Title

1. Short Title and Commencement
2. Interpretation

**PART I - GENERAL MANAGEMENT**

3. Appointment of Industrial Magistrate
4. Appointment of Registrar of Unions
5. Appointment of Industrial Relations Officer
6. Appointment of Inspectors
7. Powers and functions of Inspectors

**PART II - INDUSTRIAL UNIONS**

8. Formation of Industrial Unions
9. Procedure for registration
10. Provisions to be included in the rules of Industrial Unions
11. Registration of Industrial Unions
12. Legal status and powers arising from registration
13. Procedure for amendment, repeal or alteration of rules of Industrial Unions
14. Rules to be made available
15. Annual accounts of unions to be published
16. Cancellation of registration
17. Appeals against decision of Registrar

**PART III - INDUSTRIAL AGREEMENTS**

18. Parties to Industrial Agreements
19. Compulsory wording to be included in Industrial Agreements
20. Term of Industrial Agreements not to exceed three years
21. Date on which Industrial Agreements are deemed to be made
22. Industrial Agreements to remain in force
23. Industrial Agreements to be registered
24. Additional parties to registered Agreements
25. Members of Unions are also bound by Industrial Agreements
26. Amendment, variation, renewal or cancellation of Industrial Agreements

#### PART IV - SETTLEMENT OF INDUSTRIAL DISPUTES

27. Notification of Industrial disputes
28. Procedure on the settlement of industrial disputes
29. Appeals against determination of disputes

#### PART V - WORKERS ENTITLEMENT

30. Hours of work
31. Holidays
32. Minimum wages
33. Payment of wages
34. Expensing of wages
35. Rates of pay for overtime
36. Payment for overtime unlawfully worked
37. Deduction from wages
38. Wages and time books to be kept

#### PART VI - HEALTH, WELFARE OR SAFETY

39. General provisions concerning health, welfare and safety
40. Special provisions applicable to factories handling food
41. Workers to be medically examined if Inspector requires
42. Sanitary requirements
43. Safe means of access and safe place of employment
44. Inspector may serve requisitions on employers
45. appeal against requisitions
46. Procedure in case of accidents
47. Record of accidents
48. Employment of workers in dangerous occupations or in the operation of dangerous machinery

#### PART VII - EMPLOYMENT OF WOMEN AND CHILDREN

49. Employment of women following confinement
50. Rest period for women
51. Requirements regulating the use of machinery by women
52. Employment of children in factories
53. Restrictions on employment of persons under 18 years of age

#### PART VIII - ACCOMMODATION FOR WORKERS

54. Sufficient and suitable accommodation to be provided

#### PART IX - OFFENCES AND PENALTIES

- 55. Obstruction of inspector
- 56. General penalty for offences
- 57. Ordinance binds the Crown
- 58. Revocation

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## INDUSTRIAL AND LABOUR ORDINANCE 1964

### 1964, No. 1

An Ordinance made by the Legislative Assembly of the Cook Islands to make provisions for industrial and labour conditions in the Cook Islands (7 December 1964.)

1. Short Title and Commencement - (1) This Ordinance may be cited as the Cook Islands Industrial and Labour Ordinance 1964.

(2) This Ordinance shall come into force on the day on which it is assented to.

2. Interpretation - In this Ordinance, unless the context of otherwise requires, -

"Agricultural Worker" means a person employed for any period exceeding one week in agricultural or horticultural or pastoral work of any kind, or any person who is being trained in institution established for the training agricultural workers;

"Boy" means any male person under the age of 16 years;

"Conciliation committee" means a Conciliation committee appointed under Section 28 of this Ordinance;

"Cook Islands" means the Cook Islands as defined Part I of the Cook Islands Amendment Act, 1957;

"Employer" means any person employing any worker or workers, and includes his agent;

"Factory" means-

- (a) Any building, office, or place in which two or more persons are engaged, or in which one or more persons are employed, directly or indirectly, in any handicraft, or in preparing or manufacturing goods for trade or sale, and includes any building, office or place in which work such as is ordinarily performed in a factory is performed for or on behalf of any Island Council whether for trade or sale or not, but does not include any building in the course of erection, nor any temporary workshop or shed for workmen engaged in the erection of such building;

(b) every bakehouse;

(c) every building or place in which steam or other mechanical power or appliance is used for the purpose of preparing or manufacturing goods for trade or sale, or packing such goods for transit;

(d) every building or place in which electrical energy is generated or transformed as an illuminant or a motive power for trade or sale;

(e) every commercial laundry, whether the persons engaged or employed therein receive payment or not;

(f) every building or place in which any noxious handicraft, process or employment is carried on; and

(g) every building or place in which goods are stored or packed or otherwise kept for disposal whether by way of sale or otherwise but this shall not be interpreted to include any building or place used by any person for purposes not connected with any business or trade;

"Gazette" means the Cook Islands Gazette;

"[High Commissioner]" means the [High Commissioner] of the Cook Islands;

"High Court" means the High Court of the Cook Islands;

"Industrial Agreement" means an Industrial Agreement made under this Ordinance;

"Industrial dispute" means any dispute arising between one or more employers or a registered union of employers and a registered union of workers in relation to any industrial matter;

"Industrial Magistrate" means a person appointed by the [High Commissioner] to be an Industrial Magistrate for the purposes of this Ordinance;

"Industrial Matter" means any matter affecting or relating to any work done or to be done by workers, or the privileges, rights and duties of any employer or workers, not involving questions which are or may be the subject of proceedings for an offence, and include all matters affecting the privileges, rights, and duties of any registered union or the officers of any such union;

"Industrial Relations Officer" means a person appointed by the [High Commissioner] to be an Industrial Relations Officer for the purposes of this Ordinance;

"Industrial Union" means any union of employers or workers registered under this Ordinance; "Inspector" means a person appointed by the [High Commissioner] to be an inspector for the purposes of this Ordinance;

"Medical Officer" means and includes the Chief Medical Officer, or Assistant Medical Officer of the Cook Islands;

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

"Public Holidays" means whole holidays as specified in paragraph (a) sub-section 31(1) of this Ordinance;

"Registered Union" means a union registered under the provisions of this Ordinance;

"Registrar" means the Registrar of Unions of the Cook Islands appointed under this Ordinance;

"Sanitary Conveniences" includes urinals, water closets, earth closets, privies and any similar conveniences;

"Wages" meant and includes any money or thing had or contracted to be paid, delivered, or given as a recompense, reward, remuneration, or consideration for any service, work, or labour rendered or done, or to be rendered or done, whether within a certain time or to a certain amount, or for a time or an amount uncertain, and whether payable daily, weekly, monthly, or otherwise;

"Worker" means a person of any age of either sex employed to do any work for hire or reward.

## **PART I - GENERAL MANAGEMENT**

3. Appointment of Industrial Magistrate - (1) The [High Commissioner] may from time to time appoint a suitable person to be an Industrial Magistrate for the purposes of this Ordinance.

(2) Any person so appointed may be appointed for a period or in relation to one or more disputes or matters specified by the [High Commissioner], and may be from time to time reappointed.

4. Appointment of Registrar of Unions - The [High Commissioner] may from time to time appoint such person as he thinks fit, being a member of the Cook Islands Public Service, to be the Registrar of Unions of the Cook Islands.

5. Appointment of Industrial Relations Officer - The [High Commissioner] may from time to time appoint such person as he thinks fit, being a member of the Cook Islands Public Service, to be the Industrial Relations Officer of the Cook Islands.

6. Appointment of Inspectors - (1) The [High Commissioner] may from time to time by notice published in the Gazette appoint such suitable persons as he deems fit to be inspectors for the purpose of this Ordinance.

(2) Every inspector appointed under this Ordinance shall hold office for such period as may be specified by the [High Commissioner] by notice published in the Gazette.

7. Powers and functions of Inspectors - (1) Every inspector shall have and exercises the following powers and functions:

(a) To enter freely, inspect and examine any factory at all reasonable hours by day and night, without previous notice to the employer.

(b) To take with him a constable to assist him in the execution of his duty.

(c) To carry out any examination, test or enquiry which he may consider necessary in order to ascertain whether the provisions of this Ordinance or other legislation relating to the welfare, health and safety of workers are complied with as regards any factory or the persons employed therein.

(d) To require the production by the employer of any books, registers, notice, record, list or other documents for inspection and examination in order to ascertain that the provisions of this Ordinance or any other legislation relating to factories are complied with and to copy or make extracts from the same.

(e) To interrogate, alone or in the presence of any other person, as he thinks fit, the employer or any person whom he finds in a factory or whom he has reasonable cause to believe to be or to have been within the preceding month employed in a factory and to require such person to make and sign a statement as to the matters with respect to which he is so examined.

(f) To take or remove for purposes of analysis, samples of materials and substances used or handled, subject however, to the employer or his representative being notified before the removal or taking of any such samples or substances.

(g) To exercise such other powers and authorities as may be necessary for carrying- this Ordinance into effect.

(2) No person shall, on an examination or inquiry by an inspector under this Ordinance, be required to answer any question tending to incriminate himself.

(3) Except for the purposes of this Ordinance and the exercise of his powers and functions under this Ordinance an inspector shall not disclose to any person any information which in the exercise of those powers and functions he acquires with respect to any factory.

(4) Every employer shall permit any inspector to enter, inspect, examine, and inquire, or exercise any of the powers and functions converged upon him under this Ordinance.

(5) Every factory shall be inspected regularly and thoroughly to ensure that the provisions of this Ordinance are strictly complied with.

(6) Every person commits an offence and shall be liable accordingly who -

(a) Without reasonable cause delays an inspector in the exercise of any of his powers or functions under this Ordinance, or

(b) Fails to produce any document which he is required under this Ordinance to produce, or

(c) Conceals or prevents or attempts to conceal or prevent any person from appearing before and being examined by an inspector.

## **PART II - INDUSTRIAL UNIONS**

8. Formation of Industrial Unions - Subject to the provisions of this Ordinance, any union of employers or workers formed for the purpose of protecting or furthering the interests of employers or workers in relation to industrial matters in the Cook Islands may, with the concurrence of the [High Commissioner], be registered as an industrial union under this Ordinance in compliance with the following provisions of this Ordinance.

9. Procedure for registration - (1) An application for registration shall be made to the Registrar in writing, stating the name of the proposed industrial union, and signed by two or more officers of the union.

(2) The application shall be accompanied by-

(a) A list setting out the name of each officer of the union and the office held by him;

(b) A list setting out the name of each member of the union and the locality in which he resides or exercises his calling, and the nature of the industry in which he is engaged or the calling which he exercises:

(c) Two copies of the rules of the union:

(d) A copy of a resolution passed by a majority of the members present at a duly assembled general meeting of the union to the effect that application be made for registration as an industrial union of employers or as an industrial union of workers, as the case may be.

10. Provisions to be included in the rules of industrial unions - The rules shall provide for-

- (a) The name of the union, which shall include the words "The Cook Islands (Except Niue) Industrial Union of":
- (b) The objects of the union, which shall be in conformity with the purpose specified in section 8 hereof, and shall not include any object incompatible therewith:
- (c) The officers of the union, who shall include a President, a Secretary, and persons to act with them as an executive committee, and may include other officers:
- (d) The powers and duties of the officers, the mode of appointing officers, their tenure of office, and the removal of officers:
- (e) The keeping of a register of members, and the way in which and the terms of which persons become or cease to be members, so that no person shall at any time become a member unless he is at that time an employer or a worker, as the case may be:
- (d) Periodical dues to be paid by members, in addition to or without entrance fees and other sums, which dues and entrance fees and other sums (if any) shall not exceed such amounts as are considered by the Registrar to be reasonable:
- (g) The manner of calling general and special meetings of members and meetings of the committee, the powers of each class of meeting, the quorum therefor, and the procedure thereat (including the method of voting):
- (h) The way in which agreements and documents are made and executed on behalf of the union, and the way in which the union is represented in any negotiations or proceedings under this Ordinance:
- (i) The custody and use of the seal, including power to alter or renew it:
- (j) The accounts to be kept of the funds of the union, the officer responsible for keeping them, and the annual or other periodical audit of accounts:
- (k) The application of the funds of the union for any of its objects as specified in the rules, and not for any other purpose:
- (l) The inspection of the register of members and of the books of account of the union by every person having an interest in the funds of the union:
- (m) The place where the registered office of the union is established:
- (n) The way in which the rules may be amended, repealed, altered, subject to the provisions of this Ordinance.



11. Registration of industrial unions - (1) If the Registrar is satisfied that the union is qualified to be registered, and that the provisions of this Ordinance have been duly complied with, he shall register the union as an industrial union pursuant to the application, and shall -

(a) Endorse on both copies of the rules his approval thereof:

(b) Prepare and sign two copies of a certificate of registration:

(c) Deliver to the applicant one copy of the rules and one copy of the certificate of registration:

(d) Retain in his office the other copy of the rules and the other copy of the certificate of registration:

(e) Record the address of the registered office.

(2) Every union shall be deemed to have been registered under this Ordinance on the date on which the Registrar formally approves the registration thereof.

(3) A certificate of registration purporting to be issued under this Ordinance shall, in the absence of proof to the contrary, be evidence of the fact of the registration of the union to which the certificate relates, and of the validity thereof.

12. Legal status and powers arising from registration - Every union registered under this Ordinance shall, as from the date of registration, become a body corporate by its registered name, having perpetual succession and a common seal, until the registration is cancelled as hereinafter provided.

(2) Every registered union may sue or be sued by the name by which it is registered; and service of any document may be effected by delivering it to the President or Secretary of the union, or by leaving it at the union's registered office, or by sending it to that registered office by registered post addressed to the Secretary of the union.

(3) All dues, fees, and other sums payable to a registered union by any member thereof under its rules may be recovered in the name of the union in any Court of competent jurisdiction by the Secretary of the union, or by any other person authorised in that behalf by the executive committee or by the rules.

(4) The liabilities of any person as a member of a registered union shall not be affected by reason merely that he is under the age of twenty one years.

(5) A registered union may purchase or take on lease, in the name of the union, any house or building, and any land not exceeding five acres, and may sell, mortgage, exchange, or let the same or any part thereof; and no person shall be bound to inquire whether the union has authority for any such sale, mortgage, exchange, or letting; and the receipt of the union shall be a discharge for the money arising therefrom.

13. Procedure for amendment, repeal or alteration of rules of industrial unions - Application may at any time be made to the Registrar in writing signed by an officer of a registered union for approval of an amendment, repeal, or alteration of the rules of the union.

(2) Every such application shall be accompanied by-

(a) Two copies of the amendment, repeal, or alteration:

(b) A copy of a resolution passed in accordance with the rules as theretofore in force adopting the amendment, repeal, or alteration.

(3) If upon the making of an application the Registrar is satisfied that the amendment, repeal, or alteration has been duly made, and that the rules as altered comply with the requirements of this Ordinance, he shall endorse on both copies of the amendment, repeal, or alteration his approval thereof, and return one copy to the union, and retain the other copy in his office:

(4) No amendment, repeal, or alteration of the rules of a registered union shall have any force or effect until it is approved by the Registrar.

(5) A copy of the rules of a registered union, or of any amendment, repeal, or alteration thereof, bearing the Registrar's approval shall, in the absence of proof to the contrary, be evidence of the terms of the amendment, repeal, or alteration and that they have been duly made and continue in force.

14. Rules to be made available - A copy of the rules of a registered union shall be delivered by the Secretary to any person requiring the same on payment of a sum not exceeding one shilling.

15. Annual accounts of unions to be published - Every registered union shall forthwith after the end of every calendar year deliver to the Registrar a statement of the receipts and disbursements of the funds of the union in that year duly audited in accordance with the rules.

(2) The Registrar shall publish every such statement in such manner as he thinks proper.

16. Cancellation of registration - (1) The Registrar may, by notice in writing published in such manner as he thinks proper, cancel the registration of a union -

(a) At the request of the union evidenced in such manner as the Registrar may require:

(b) If in his opinion the certificate of registration has been obtained by fraud or mistake:

(c) If in his opinion the union or the officers or members thereof have wilfully committed a breach of any of the provisions of this Ordinance, or wilfully acted otherwise than in conformity with the rules of the union:

(d) If in his opinion the union has ceased to exist:

Provided that the Registrar shall not cancel the registration of a union on a ground specified in paragraph (c) and (d) hereof until after he has, in such manner as he thinks proper, given notice of his intention to do so, specifying the date after which and the ground on which he intends to act, and has considered any evidence on the matter that the union or any officer or member may tender to him on or before the date so specified.

(2) Every notice of cancellation shall, unless an appeal has been instituted as hereinafter provided, take effect at the expiration of twenty-eight days after the notice of cancellation is given.

17. Appeals against decision of Registrar - (1) Any person aggrieved by the refusal of the Registrar to register a union or to approve any amendment, repeal, or alteration of the rules of a registered union, or by the cancellation by the Registrar of the registration of a union, may within twenty-eight days after the date of the refusal or of the giving of the notice of cancellation, appeal by motion to the High Court.

(2) On any such appeal the High Court may uphold the decision of the Registrar and dismiss the motion, or may vary or set aside the decision of the Registrar and make an order to take effect in place of the decision of the Registrar, and may give such other directions as it thinks fit.

### **PART III - INDUSTRIAL AGREEMENTS**

18. Parties to industrial agreements - The parties to industrial agreements under this Ordinance shall in every case be industrial unions or employers; and any such agreement may provide for any matters or thing affecting or relating to any industrial matter or for the prevention or settlement of any dispute.

19. Compulsory wording to be included in industrial agreements - Every industrial agreement shall commence as follows:

"This industrial agreement, made in pursuance of the Cook Islands Industrial and Labour Ordinance 1954, this ..... day of ..... between .....", and then the matters agreed upon shall be set out.

20. Term of industrial agreements not to exceed three years - Every industrial agreement shall be for a term specified therein, not exceeding three years from the date of the making thereof, as specified therein:

Provided that (without extending the term of the agreement as a whole) any provision of the industrial agreement fixing a basis or method for the calculation of wages maybe for a specified term not exceeding five years from the date of the making of the agreement, and any such provision may be amended accordingly during the currency of the agreement and with the consent of the parties thereto.

21. Date on which industrial agreements are deemed to be made - The date of the making of the agreement shall be the date on which it is executed by the party who first executes it, and that date, and the names of all the original parties thereto, shall be truly stated therein.

22. Industrial agreements to remain in force - Notwithstanding the expiry of the term of the industrial agreement, it shall continue in force until superseded by another industrial agreement except where the registration of a union of workers bound by the agreement has been cancelled.

23. Industrial agreements to be registered - A duplicate of the original of every industrial agreement shall, within thirty days after the date of the making thereof, be registered with the Registrar.

24. Additional parties to registered agreements - At any time while the industrial agreement is in force any union or employer covered by the industrial agreement may become a party thereto by registering with the Registrar a notice (in such form as the Registrar may prescribe) signifying concurrence with the Agreement.

25. Members of unions are also bound by industrial agreements - Every industrial agreement duly made, executed and registered shall be binding on the parties thereto and also on every member of any union which is a party thereto.

26. Amendment variation renewal or cancellation or industrial agreements - (1) An industrial agreement may be amended, varied, renewed or cancelled by any subsequent industrial agreement made by and between all the parties thereto, but so that no party shall be deprived of the benefit thereof by any subsequent industrial agreement to which he is not a party.

(2) Every industrial agreement shall from time to time be amended or varied by incorporating therein every final decision reached by either the Conciliation Committee or the Industrial Magistrate as the case may be; and every such decision shall be binding upon all the parties to such industrial agreement.

#### **PART IV - SETTLEMENT OF INDUSTRIAL DISPUTES**

27. Notification of industrial disputes - Any registered union or any employer, being a party to a duly created industrial dispute, may refer the dispute with a complete list of the parties thereto to the Industrial Relations Officer.

28. Procedure in the settlement of industrial disputes - Upon proof of the creation of an industrial dispute the Industrial Relations Officer may if he thinks fit, and shall if any party to the dispute requires him so to do, appoint for the purposes of any dispute so referred to him a Conciliation Committee consisting of an equal number of persons nominated by the worker's union and an equal number of persons nominated by the employers who are parties to the dispute, the number in each case to be determined by the Industrial Relations Officer.

(2) It shall be the duty of the Industrial Relations Officer and of the Conciliation Committee (if any) to endeavour to bring about a settlement of the dispute, and to this end they shall, in such

manner as they think fit, carefully inquire into the dispute and all matters affecting the merits and the right settlement of the dispute.

(3) The Industrial Relations Officer shall preside at all meetings of the Conciliation Committee and shall regulate the procedure of the Committee in such manner as he thinks fit, but he shall not be a member thereof.

(4) If no voluntary settlement of the dispute can be brought about the dispute shall be determined subject to the approval of the Industrial Relations Officer, by a majority decision of the members of the Conciliation Committee and the Industrial Relations Officer, or, if there is no Conciliation Committee or if no such majority decision can be obtained, by a decision of the Industrial Relations Officer.

(5) Notice of every such determination shall be given by the Industrial Relations Officer in such manner as he thinks proper.

29. Appeals against determination of disputes - (1) Any party to a dispute who is aggrieved by the determination of the dispute as aforesaid may, within fourteen days after the date of the first notice of the determination, appeal by notice in writing given to the [High Commissioner].

(2) Every such appeal shall be determined by an Industrial Magistrate.

(3) On any such appeal the procedure shall be such as the Industrial Magistrate determines, and the Industrial Magistrate may uphold the determination appealed against and dismiss the appeal, or may vary or set aside the determination and make an order to take effect in place of the determination, and may give such other directions as he thinks fit.

(4) Where the determination of a dispute is appealed against as aforesaid, it shall be deemed to be suspended pending the determination of the appeal.

(5) Every determination of a dispute and every order made on appeal against any such determination shall be binding on every party to the dispute and, in the case of a union, on every member of the said union, unless it is for the time being suspended as aforesaid, or set aside on appeal or by a subsequent determination under this Ordinance or by agreement of the parties to the dispute.

#### **PART V - WORKERS ENTITLEMENT**

30. Hours of work - (1) Subject to the provisions of this Ordinance, no worker shall be employed-

(a) For more than forty hour in any one week; or

(b) For more than eight hours in any one day; or

(c) For more than four and a half hours continuously without an interval of at least three-quarters of an hour for a meal, except as may be provided in an industrial agreement registered under this Ordinance:

Provided that the said period of four and a half hours may be extended to not more than five hours in cases where the employer allows a rest period of not less than ten minutes in every working period of not more than three hours.

(2) Notwithstanding anything contained in the last preceding sub-section, the prescribed working hours or times may from time to time be extended but in the case of women who have attained the age of sixteen years -

(a) The extension shall not be more than three hours in any day (excluding any time worked before noon on Saturday), nor more than nine hours in any week.

(b) The extension shall not be for any period between the hours of 10 o'clock in the evening of any day and 7 o'clock in the morning of the following day.

Provided however that the Industrial Relations Officer may grant an application for an extension provided that the union to which the workers belong is in agreement and the period of the extension is one week or less and the intervals between such periods are not less one calendar month.

(3) No worker who is employed beyond the prescribed working hours hereinbefore provided shall be employed on such occasion for more than four hours continuously without an interval of at least half an hour for rest and refreshment.

(4) Every worker who is employed during extended hours shall be paid therefor at not less than one half as much again as the ordinary rate.

31. Holidays - (1) Except as hereinafter provided, every employer shall allow to every worker employed by him, the following holidays that is to say-

(a) A whole holiday on Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Monday, Anzac Day, Labour Day, Proclamation Day, i.e., the 8th October except in Mangaia and 9th October in Mangaia only; and the birthday of the reigning Sovereign.

(b) Annual holidays on the basis of two weeks for a complete twelve months service.

(2) Every employer shall pay a day's wages for each whole holiday to all workers who have been employed by him continuously for one month preceding the whole holiday.

(3) Every employer shall at least once, each year or on termination of employment allow annual holidays with pay to all workers employed by him continuously for three months or more such payment to be calculated proportionately on the basis of two weeks for a complete twelve months service.

(4) Notwithstanding anything contained in sub-section (1) of this section it shall be lawful for an employer to employ any worker on any whole holiday as aforesaid.

(5) Notwithstanding anything contained in this Ordinance or in the Public Holidays Ordinance 1949 the [High Commissioner] may from time to time, as he thinks fit, transfer the observation of any public holiday to a date to be fixed by him and publish the change in such manner as he thinks fit, in which case the provisions of this section will apply to the date fixed by the [High Commissioner] and not to the date on which the public holiday occurs.

32. Minimum wages - (1) Notwithstanding anything to the contrary contained in any industrial agreement or contract of service whether in writing or otherwise every worker shall be entitled to receive from his employer payment for his work at not less than the appropriate minimum rate prescribed under subsection (2) of this section.

(2) For the purposes of the last preceding sub-section the minimum rates shall be such rates as may from time to time be determined by the [High Commissioner] upon the recommendation of the Industrial Relations Officer, and published in the Gazette.

33. Payment of wages - Every worker shall be paid his wages in money only, and not otherwise, and if by agreement, custom or otherwise, a worker is entitled to receive in anticipation of the regular period of the payment of his wages an advance as part or on account thereof, it shall not be lawful for the employer to withhold the advance except in accordance with the provisions of any other Ordinance or enactment or to make any deduction in respect of the advance on account of poundage, discount, or interest or other similar charge.

34. Expending of wages - (1) No employer shall, directly or indirectly, by himself or by his agent impose a condition, express or implied, in or for the employment of any worker any terms as to the place or the manner in which, or the person with whom, any wages or portion of wages paid to the worker, is to be expended.

(2) No employer shall, by himself or his agent, dismiss any worker from employment for or on account of the place at which, or the manner in which, or the person with whom any wages or portion of wages paid by the employer to such worker is or is not expended.

35. Rates of pay for overtime - (1) In every case where a worker is employed or any period in excess of the ordinary eight hours a day or forty hours a week as the case may be, such worker shall be paid for such excess period at half the ordinary rate in addition to his ordinary rate of pay, except that such worker shall be paid at double the ordinary rate of pay for -

(a) All hours worked in excess of thirteen hours per day.

(b) All hours worked after 11 a.m. on a Saturday provided that 40 hours of work at ordinary rates of pay were performed during the preceding Monday to Friday.

(2) In every case where a worker is employed on a Sunday or a whole holiday, he shall be paid at double the ordinary rate of pay for all hours worked by him and, in addition, he shall be paid any amount payable to him in accordance with the provisions of sub-section (2) of section 31.

(3) In every case where any worker is engaged in any employment in which work is performed on Sundays, is actually employed on any Sunday, he shall be paid for the time worked on such Sunday at not less than double his ordinary rate of pay.

36. Payment for overtime unlawfully worked - In every case where a worker is employed during extended hours he shall be paid therefore in accordance with the provisions of this Ordinance relating to overtime notwithstanding the extension of hours may have been unlawful.

37. Deduction from wages - In every case where a worker is provided with board or lodging by his employer, any deduction made in respect thereof by the employer shall not exceed such amount as fixed by or under any agreement relating to the worker's employment or if it is not so assessed or fixed, by more than one pound eleven shillings and sixpence a week for board and ten shillings and sixpence a week for lodging.

38. Wages and time books to be kept - (1) -Every employer shall at all times keep in such form as may from time to time be approved by the inspector a record in English or the Maori Language of the Cook Island (called the wages and the time book) showing, in the case of each worker-

- (a) The name of the worker;
- (b) His age;
- (c) The kind of work on which he is usually employed;
- (d) The hours of his employment during each week;
- (e) The wages paid each week;
- (f) The hours worked each day by each worker;
- (g) The manner in which the weekly earnings of each worker are calculated;
- (h) The workers receipt for the amount paid to him;
- (i) Such other particulars as may be specified by the inspector.

(2) every wages and time book shall at all times be open to inspection by the inspector.

(3) The inspector may at any time during ordinary working hours require the employer to verify in writing the entries in any wages and time book.



## **PART VI - HEALTH, WELFARE OR SAFETY**

39. General provisions concerning health welfare and safety - Every factory shall be kept in a clean state and free from any nuisance and from any smell or leakage from any drain or sanitary convenience.

(2) Accumulations of dirt and refuse shall be removed daily by a suitable method from the floors and benches of workrooms and from staircases and passages.

(3) The floor of every workroom shall be cleaned at least once a week by washing, or, if it is effective and suitable, by sweeping or other method.

(4) A factory shall not be overcrowded so as to cause risk of injury to the health of any of the workers employed therein.

(5) Every room in every factory shall be ventilated in such a manner as to provide a sufficient supply of fresh air and to carry off and render, as far as practicable, all steam, fumes, dust and other impurities arising in the course of the work carried on in the factory.

(6) In every factory in which, in connection with any process carried on, there is given off any steam, fume, dust or other impurity of such a character and to such extent as to be likely to be injurious or offensive to the workers employed or any substantial quantity of dust of any kind all reasonable and practicable measures shall be taken to protect the workers employed, against inhalation of the steam, fumes, dust and other impurity and to prevent its accumulating in any workroom and in particular, where the nature of the process makes it practicable, exhaust appliances shall be provided and maintained, as near as possible to the point of origin of the steam, fume, dust or other impurity, so as to prevent it entering the air of any workroom.

40. Special provisions applicable to factories handling food - (1) The following provisions shall apply to every bakehouse and to every other factory in which is carried on the manufacture or preparation or treatment of any article for sale for human consumption.

All inside walls and partitions, and all ceilings or tops of rooms, and all walls, sides, and tops of passages and staircases shall -

(a) Where they have a smooth impervious surface, at least once in every period of twelve months be washed with hot water and soap or other suitable detergent or cleaned by such other method as may be approved by an Inspector.

(b) Where they are kept painted with paint or varnished, be repainted or re-varnished at least once in every period of seven years, and at least once in every period of twelve months be washed with hot water and soap or other suitable detergent or cleaned by such other method as may be approved by an Inspector.

(c) In other cases be kept whitewashed or colour-washed and the whitewashing or colour-mashing shall be repeated at least once in every period of twelve months, except in the

case of bakehouses, where it shall be repeated at least once in the period of six months.

(2) For the purpose of sub-section (1) of this section, the employer shall furnish from time to time evidence to the satisfaction of the Inspector as to how and when the walls, ceilings and roofs aforesaid were cleaned, painted or varnished as the case may be.

(3) No place which is on the same level as any part of a factory to which sub-sections (1) and (2) of this section apply, and which forms part of the same building, shall be used as a sleeping place unless the place is effectually separated from the factory by a partition extending from floor to ceiling and is adequately and reasonably ventilated.

(4) Every cistern and pipe therefrom, for supplying water to any sanitary convenience from a reticulated water supply shall be separate and distinct from every cistern or pipe supply of water to any other portion of the factory.

(5) No sanitary convenience or refuse bin shall be suffered to exist within or to be connected directly with any part of the factory in which work is carried on or materials or goods are kept, prepared, or treated, and no drain or pipe for carrying off faecal matter or sewage shall have an opening within any such part of the factory as aforesaid.

41. Workers to be medically examined if inspector requires - (1) Every worker who is employed in any factory in which any article for human consumption or any textile fabric is manufactured, prepared, treated, handled or delivered, and who is in such state of health that in the opinion of an Inspector, germs, disease or other contamination are likely to be conveyed to any of the articles or fabric, shall submit himself for examination by the Medical Officer.

(2) For the purpose of sub-section (1) of this section the following provisions shall apply:-

(a) The Inspector shall serve a notice upon the worker requiring him to submit himself for examination.

(b) A copy of such notice shall be served upon the employer.

(c) Upon the service of such notice on the worker, such worker shall immediately cease to do any work whatsoever, in connection with the factory until the Medical Officer; has certified that the state of health of such worker is not such that germs, disease, or other contamination are likely to be conveyed to any of the said articles or fabrics.

(d) If the worker does any work in contravention of the last preceding paragraph before he obtains the said certificate he shall be liable to a fine not exceeding £2 for every day on which he does work.

(e) If the employer, after service upon him of a copy of a notice under this sub-section, employs the worker on whom a notice has been served before that worker has obtained

the said certificate he shall be liable to the same fine as is provided in the last preceding paragraph.

42. Sanitary requirements - With respect to any premises where trade or business is carried on and in which workers are employed the following provisions shall apply-

(a) Sufficient and suitable sanitary conveniences shall be provided and maintained to the satisfaction of an Inspector and shall be conveniently accessible to the workers employed on the premises.

(b) If members of both sexes are so employed not being members of the same family, the conveniences shall be entirely separate for each sex so as to ensure privacy.

(c) There shall be provided and maintained for the use of the workers so employed adequate and suitable facilities for washing and the facilities shall be kept in a clean and orderly condition.

(d) An adequate supply of wholesome drinking water shall be provided for the free use of the workers so employed.

43. Safe means of access and safe place of employment - (1) It shall be the duty of every employer to provide and maintain in each factory safe means of access to every place at which any worker has at any time to work.

(2) Where any worker is to work at a place from which he will be liable to fall a distance of more than ten feet, then unless the place is one which affords secure post-hold and, where necessary, secure hand-hold, means shall be provided by the employer, so far as is reasonably practicable, by fencing or otherwise for securing his safety.

(3) It shall be the duty of any employer to ensure that all floors, steps, stairs, passages, gangways and ladders which are used or likely to be used by workers in a factory are of sound construction and properly maintained, whether or not they belong to the factory.

(4) It shall be the duty of every employer to provide steps and stairs which are used or likely to be used by workers in a factory, whether or not the steps or stairs belong to the factory, with substantial handrails or some other means of preventing slipping.

(5) All openings in floors or dangerous machinery of any kind shall be securely fenced, except so far as the nature of the work tends such fencing impracticable.

(6) Every employer shall make effective provision for securing and maintaining sufficient and suitable lighting, whether natural or artificial, in every part of a factory in which workers are employed or persons pass.

(7) In the case of any process which involves a special risk of injury to the eyes from particles or fragments thrown off in the course of the process, the employer shall, to protect the eyes of

workers employed in the process, provide effective screens or provide each person so employed with suitable goggles.

(8) There shall be provided by every employer efficient fire escapes for every workroom situated on any floor above the ground floor.

(9) Every door of any room or any passage or staircase leading to and from or serving as a means of entrance or exit for any such room and every outer or entrance door by which workers in the factory usually enter or leave shall whether or not the door belongs to the factory be kept clear and unfastened, so as to permit of a quick and easy egress.

44. Inspector may serve requisitions on employers - (1) In every case where in the opinion of the inspector any provision of this Ordinance imposing requirements as to health, welfare or safety is not being observed or complied with or is being insufficiently observed or complied with in relation to any factory or in any case where in the opinion of the inspector there is any defect whatsoever in any factory the inspector may by requisition to the employer or his agent require that the requirements of this Ordinance be duly and properly observed and complied with or as the case may be that the defect be remedied to the satisfaction of the inspector.

(2) Every requisition under sub-section (1) of this section shall be in writing under the hand of the inspector and may be served either by delivering it to an employer or his agent, or by posting it by registered letter addressed to the employer or his agent. A requisition when posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.

(3) Every requisition when served as aforesaid shall bind every employer and every employer who fails to comply with such requisition commits an offence against this Ordinance.

45. Appeal against requisitions - (1) If any employer considers any requisition by an Inspector to be unreasonable he may appeal against it by filing in the High Court a notice setting out with reasonable particularity the grounds of the appeal. A copy of the notice of appeal shall be served on the inspector.

(2) The appeal as aforesaid shall be void unless the notice of appeal is duly filed as aforesaid within fourteen days after the date of service of the requisition.

46. Procedure in case of accidents - (1) In every case where an accident occurs which causes death or serious bodily injury to any worker employed the employer shall forthwith, and not in any event later than forty-eight hours after the occurrence of the accident, serve written notice thereof on the Industrial Relations Officer or Resident agent or Clerk-in-Charge specifying the nature of the accident the name and residence of the worker killed or injured, his age, and the place (if any) to which he has been removed.

(2) For the purposes of the last preceding sub-section the expression "serious bodily injury" means an injury which is likely to incapacitate the sufferer for work for at least forty-eight hours.

(3) As soon as practicable after receiving notice of an accident the Industrial Relations Officer or Resident Agent or Clerk-in-Charge shall make full inquiry into the nature and cause of the accident, and the nature and extent of the injuries.

47. Record of accidents - The employer of a factory shall keep in the factory a register in such form as may be approved by the inspector, and shall enter in or attach to the register, the prescribed particulars, relating to every accident which occurs in the factory and of which he has knowledge.

48. Employment of workers in dangerous occupations or in the operation of dangerous machinery - (1) In every case where a worker is required to operate any dangerous machinery, it shall be the duty of the employer employing such worker to ensure that such worker is first given a reasonable training in the operation of such machinery.

(2) Any inspector shall prohibit work in occupations which are, in his opinion, likely to cause serious injury to any person but such prohibition may be revoked when the inspector is satisfied that adequate safety precautions have been provided.

(3) Every person who fails to comply with the provisions of this section or with any prohibition or with any conditions made in pursuance thereto, commits an offence against this Ordinance.

#### **PART VII - EMPLOYMENT OF WOMEN AND CHILDREN**

49. Employment of women following confinement - No woman shall be permitted during the period of six weeks immediately following her confinement to work in any factory other than a factory in which only members of the same family are employed unless the Medical Officer certifies that a lesser time is sufficient.

50. Rest period for women - In every case where a woman worker is employed by an employer in any factory where her normal and regular employment involves continuous standing, she shall be allowed ten minutes rest period every three hours if required to work more than four hours at a stretch.

51. Requirements regulating the use of machinery by women - No woman shall be employed to work at any machine in a factory unless she has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and unless -

(a) She has received sufficient training in work at the machine; or

(b) She is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

52. Employment of children in factories - (1) Except as hereinafter provided in this Ordinance no boy or girl under sixteen years of age shall be employed in any factory.

(2) A boy or girl under sixteen years of age may be employed in any factory provided that the employer of such boy or girl shall first obtain from the Industrial Relations Officer a certificate certifying that the boy or girl is fit to be so employed.

(3) No boy or girl under sixteen years of age shall be employed in any factory at any time between the hours of 6 p.m. and 7 a.m. or on any Sunday or Public Holiday.

(4) No boy or girl under sixteen years of age shall be employed by an employer for any period in excess of the maximum of eight hours a day or forty hours a week.

53. Restrictions on employment of persons under 18 years of age - (1) No person under eighteen years of age shall be employed by an employer in any employment which in the opinion of the Industrial Relations Officer is a dangerous occupation.

(2) No person under eighteen years of age shall be employed to work at any machine in a factory unless he shall have been fully instructed as to the dangers arising in connection with the machine and the pre-cautions to be observed, and unless-

(a) He has received sufficient training in work at the machine; or

(b) He is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

### **PART VIII - ACCOMMODATION FOR WORKERS**

54. Sufficient and suitable accommodation to be provided - (1) Subject as hereinafter provided it shall be the duty of every employer who requires or allows workers to live in premises provided by him to provide sufficient and suitable accommodation for all such workers employed by him.

(2) For the purposes of the last preceding sub-section the Industrial Relations Officer may from time to time issue such directions as he thinks fit to provide for a sufficient and suitable accommodation for any worker; and where there is compliance with such directions in all respects, such accommodation shall be deemed to be sufficient and suitable for the purposes of this Ordinance.

### **PART IX - OFFENCES AND PENALTIES**

55. Obstruction of inspector - Every person commits an offence and shall be liable to a fine not exceeding fifty pounds who-

(a) Without reasonable cause delays an inspector in the exercise of any of his powers or functions under this Ordinance, or

(b) Fails to produce any document which he is required under this Ordinance to produce, or

(c) Conceals or prevents or attempts to conceal or prevent any person from appearing before and being examined by an inspector.

56. General penalty for offences - (1) Every person who fails to comply with any of the provisions of this Ordinance or with any act or thing done in pursuance thereof, commits an offence against this Ordinance and shall, where no express penalty is provided herein, be liable to a fine not exceeding fifty pounds, and two pounds thereafter for each day during which such offence is continued.

(2) If in consequence of any such default as aforesaid an accident occurs causing bodily injury or death to any worker, the employer shall, in addition to the aforesaid penalty, be liable to a further fine not exceeding one hundred pounds, the whole or any part of which may be applied, in such manner as the [High Commissioner] directs, for the benefit of the person injured or of his family or dependents if he has been killed:

Provided that an employer shall not be liable under this section if earlier proceedings in respect of the default have been taken and dismissed on their merits within one month before the accident occurred:

Provided further that nothing in this section, and no penalty imposed under this section, shall operate in any way to relieve an employer from any liability which, independently of this Ordinance, he may incur for damage or compensation in respect of the accident or its consequences.

57. Ordinance binds the Crown - This Ordinance shall bind the Crown, provided however that it shall not apply to the Cook Islands Public Service as defined Section 76 of the Cook Islands Amendment Act 1957.

58. Revocation - (1) The Cook Islands Industrial Unions Regulations 1947 shall as from the commencement of this Ordinance cease to have any effect in the Cook Islands.

(2) All matters and proceedings commenced under the enactment so revoked and pending or in progress at the time of the revocation may be continued, completed and enforced under this Ordinance and all offices, appointments, industrial agreements, determinations and generally all acts of authority which originated under the said enactment and are subsisting or in force at the time of revocation of that enactment, shall ensure for the purposes of this Ordinance as fully and effectually as if they had originated under the provisions of this Ordinance, and accordingly shall, where necessary, be deemed to have so originated.

[In this Ordinance the words "High Commissioner" were substituted for the words "Resident Commissioner" by S.3(4) of the Cook Islands Amendment Act 1965.]

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