

CHAPTER 157A LABOUR RELATIONS ACT

• Act • Subsidiary Legislation •

ACT

Act No. 15 of 1999

Amended by

Act No. 11 of 2000

Act No. 9 of 2003

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CHAPTER 157A LABOUR RELATIONS ACT

An Act respecting labour relations, and matters connected therewith.

[Act No. 15 of 1999 amended by Act No. 11 of 2000, Act No. 96 of 2003.]

[17th April, 2000.]

PART I

Preliminary

1. Short title

This Act may be cited as the Labour Relations Act.

2. Interpretation

In this Act—

“arbitration tribunal” means a person or a body of persons constituted in accordance with section 46 for the settlement of trade disputes;

“bargaining agent” means a registered trade union which has been certified by the Minister to act on behalf of employees;

“bargaining unit” means the class or classes of employees determined by the Labour Commissioner to be an appropriate bargaining unit in accordance with section 35;

“business” includes any trade, undertaking, operation or establishment;

“collective agreement” means a written agreement between an employer; or an employers’ organisation authorised by the employer, and a trade union concerning terms and conditions of employment, procedures for the avoidance and settlement of disputes and any other matter of mutual interest;

“dependent contractor” means any person or undertaking, corporation, company, public authority, or body of persons, being an employer, who or which employs any person to work under a contract of employment, but whose economic means are of such a nature that that dependent contractor or “petty contractor” has to depend on assistance whether financial or otherwise prior to the undertaking of the contract;

“employee” means a person who has entered into or works under a contract of employment with an employer, whether such contract be expressed or implied, oral or written; the term “employee” may be used interchangeably with the term “worker” and has the same meaning;

“employer” means any person or undertaking, corporation, company public authority or body of persons who or which employs any person to work under a contract of employment or uses the services of a dependent contractor, and includes the heirs, successors and assigns of an employer;

“employers organisation” means any combination established by employers, the principal purposes of which are the representation and promotion of employers’ interests and the regulation of relations between employers and employees;

“essential services” means the services specified in the Second Schedule;

“independent contractor” means any person or undertaking, corporation, company, public authority, or body of persons, being an employer, who or which employs any person to work under a contract of employment, and whose economic means are of such a nature that that independent contractor does not have to depend on assistance whether financial or otherwise prior to the undertaking of the contract;

“irregular industrial action” means any concerted course of conduct (other than a strike) whether or not in contemplation or furtherance of a trade dispute which—

- (a) is carried on by a group of employees having reasonable cause to believe that the consequence of their conduct will prevent or reduce or otherwise interfere with the production of goods or the provision of services; and
- (b) in the case of some or all of them, is carried on in breach of their contracts of employment or otherwise in breach of their terms and conditions of service;

“Labour Advisory Board” means the Labour Advisory Board appointed by the Minister pursuant to section 17 of the Employment Act, 1999, Chapter 89;

“Labour Commissioner” or “Commissioner” means the person for the time being appointed to the office of Labour Commissioner as referred to in section 7 of the Employment Act, 1999, Chapter 89;

“lock-out” means closing a place of employment, a suspension of work by an employer or a refusal by an employer to continue to employ or reengage any number of his or her employees done to compel his or her employees, or to aid another employer to compel his or her employees to agree to terms and conditions of employment;

“managerial employee” means an employee who has and exercises authority in the interest of the employer to employ, transfer, inspect, lay off, recall, promote, dismiss, reward or discipline other employees or to deal with their grievances or effectively to recommend such action when the exercise of such authority is not merely of a routine or clerical nature but requires independent judgement;

“member in good standing” means an employee who—

- (a) has become a member of one of the applicant trade unions after having paid a sum by way of entrance fee;

(b) has actually paid the requisite membership dues to one of the applicant trade unions for a continuous period of four weeks immediately before the claim was made,
and has documentary proof in support of the foregoing.

“Minister” means the Minister for the time being responsible for labour matters;

“organisation” means an association of persons to be registered under this Act as a trade union or employers’ organisation, as the case may be;

“prescribed” means prescribed by rules or regulations;

“registered organisation” means a trade union or employers’ organisation, as the case requires, registered in accordance with this Act;

“Registrar” means the Registrar of Trade Unions and Employers’ Organisations;

“strike” means concerted stoppage of work by a combination of employees in contemplation or furtherance of a trade dispute whether they are parties to the dispute or not or whether the stoppage is or is not in breach of the terms and conditions of employment and whether it is carried out during or on the termination of the employment, but does not include an act or omission required for the safety or health of employees, or a refusal to work under section 65 of this Act;

“trade dispute” means a dispute between—

- (a) an employer or an employers’ organisation on his or her behalf, and one or more employees, or a trade union on his or her or their behalf; or
- (b) between groups of employees, or trade unions on their behalf,

where the dispute is connected with the employment or non-employment, or the terms of employment, or with the conditions of labour, of any person;

“trade union” means any combination of persons registered under this Act, the principal purposes of which are the representation and promotion of employees interests and the regulation of relations between employees and employers, and includes a federation of trade unions, but not an organisation or association that is dominated or influenced by an employer or employers’ organisation.

3. Non-application of Act

This Act does not apply to members of the police or armed forces, except those employed in a civilian capacity although, as far as it is practicable their conditions of service should not be less favourable.

3A. Constitution of Labour Code of Grenada

The provisions of the principal Act together with those of the Employment Act, Chapter 89, shall constitute the Labour Code of Grenada.

PART II

Registration of Trade Unions and Employers’ Organisations

4. Registration of organisation

(1) No organisation or member thereof shall perform any act in furtherance of the purposes for which it has been formed in relation to this Act unless such organisation has first been registered in accordance with this Act.

(2) A member or officer of an organisation who contravenes this section commits an offence and shall be liable, on summary conviction, to a fine not exceeding five thousand dollars.

5. Minimum requirements for registration

(1) Any twenty-five or more persons by subscribing their names to the constitution of an organisation concerned with employees and otherwise complying with this Act with respect to registration, may apply to the Registrar for registration as a trade union under this Act.

(2) Subject to subsection (3), any ten or more members of an organisation concerned with employers by subscribing their names to the constitution of the organisation and otherwise complying with this Act with respect to registration, may apply to the Registrar for registration as an employers' organisation under this Act.

(3) Where any one of the purposes of such trade union or employers' organisation is unlawful such registration shall be void.

6. Appointment of Registrar

(1) The Minister shall appoint a person to be the Registrar of Trade Unions and Employers' Organisations after consultation with the Labour Advisory Board.

(2) For the purposes of this section, Labour Advisory Board means the Labour Advisory Board appointed by the Minister pursuant to section 17 of the Employment Act, 1999, Chapter 89.

7. Procedure for registration

(1) Where application is made for registration by an organisation, the Registrar shall register such organisation and furnish it with a certificate of registration if the Registrar is satisfied with the following—

- (a) that the minimum requirements for registration as set out by section 5 are complied with;
- (b) that the constitution of the organisation is consistent with this Act and the constitution of Grenada and does not contain provisions which are contrary to any other enactment or rule of law;
- (c) that the name of the organisation is not identical to that of any existing organisation or so closely resembling such name as to be likely to deceive its own members or members of the public.

(2) An application for registration should be made to the Registrar and three copies of the organisation's constitution shall accompany such application.

(3) Any trade union or employers' organisation which was registered immediately before the commencement of this Act shall continue to be registered under this Act.

8. Right of appeal regarding non-registration

An appeal shall lie to the High Court if the Registrar fails or refuses to register an organisation, and the decision of the High Court shall be final.

9. Cancellation of registration

(1) The Registrar may cancel the registration of a trade union or employers' organisation—

- (a) at the request of the organisation in the prescribed form;

- (b) on satisfactory proof that a certificate of registration has been obtained by fraud or mistake; or that such organisation has wilfully, after notice from the Registrar, violated this Act;
- (c) on satisfactory proof that the organisation or its funds are being used for an unlawful purpose or a purpose not authorised by this Act or its own constitution;
- (d) on satisfactory proof that the accounts of the organisation are not being kept in accordance with this Act or its own constitution;
- (e) on satisfactory proof that a trade union has a membership of less than twenty-five, or an employers' organisation has a membership of less than ten; or
- (f) on satisfactory proof that an organisation has ceased to exist.

(2) The Registrar shall, for the purposes of subsection (1) give not less than two months notice specifying briefly the grounds of the proposed cancellation, except where the organisation has ceased to exist in which case notice of cancellation may be given forthwith.

(3) An appeal from the decision of the Registrar under this section shall lie to the High Court subject to the same conditions as are provided for an appeal against the refusal of the Registrar to register an organisation, and the High Court may make rules providing for the same matters for which rules may be made in respect of such appeal.

(4) The decision of the High Court shall be final.

PART III

Status of Registered Organisations

10. Power of registered organisations to purchase land

A registered organisation may purchase or take upon lease land in the names of the trustees for the time being and may sell, exchange, mortgage any or let any such land.

11. Property of registered organisation vested in trustees

(1) All real and personal estate belonging to a registered organisation shall be vested in the trustees for the time being of the organisation for the use and benefit of such organisation and the members thereof and shall be under the control of such trustees, their representative executors or administrators, according to their respective claims and interest.

(2) Upon the death or removal of a trustee, property that was vested in the trustee shall vest in the succeeding trustee for the same estate and interest as the former trustee had therein, and subject to the same trusts, without any conveyance or assignment whatsoever.

(3) In all actions, suits, indictments or summary proceedings touching or concerning property vested in the trustees, such property shall be stated to be the property of the persons for the time being holding the office of trustee, in their proper names, as trustees of the organisation without further description.

12. Actions by or against trustees

(1) The trustees of a registered organisation or any other officer of such organisation who may be authorised to do so by the rules may bring or defend any action, suit, prosecution or complaint in any court concerning the right or claim to property, real or

personal, of the organisation, and may sue or be sued in their proper names without other description than the title of their office.

(2) The rights conferred by subsection (1) shall not abate by the death, resignation or removal from office of a trustee or other officer but such rights shall be vested in the successor in office as if such death, resignation or removal had not taken place.

(3) The successor of the trustee or other officer shall in all respects be in the same position as if the proceedings had been commenced in his or her name.

(4) A summons or other process of any court to be issued to a trustee or other officer of an organisation may be served by leaving the same at the registered office of the organisation.

13. Limitation of liability of trustees

A trustee of a registered organisation shall not be liable to make good any deficiency occurring in the funds of such organisation, but shall be liable only for the monies actually received by him or her on account of the organisation.

14. Immunity of organisations from actions in tort

(1) An action against an organisation, whether of employees or of employers, or against members or officials thereof on behalf of themselves and all other members of the organisation in respect of any tortious act alleged to have been committed by or on behalf of the organisation shall not be entertained by any court.

(2) Nothing in this section shall affect the liability of an organisation or an official thereof to be sued in any court touching or concerning the property or rights of an organisation, except in respect of a tortious act committed by or on behalf of the organisation in contemplation or in furtherance of a trade dispute.

15. Legality of organisations under criminal or civil law

(1) The purposes of a registered organisation shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful so as to render any member of such organisation liable to criminal prosecution for conspiracy or otherwise.

(2) The purposes of a registered organisation shall not, by reason merely that they are in restraint of trade, be unlawful so as to render voidable any agreement or trust entered into by the organisation.

PART IV

Special Requirements Pertaining to Registered Organisations

16. Constitutions of registered organisations

With respect to the constitution of a registered organisation the following provisions shall have effect—

- (a) the constitution of every such organisation shall contain provisions in respect of the several matters mentioned in the First Schedule;
- (b) a copy of the constitution shall be delivered by the organisation to every person on demand on payment of a sum not exceeding five dollars, or such other reasonable sum as shall be approved by the Registrar in writing;
- (c) a copy of the constitution shall be delivered by the organisation to every person or business admitted into membership.

17. Alterations of constitutions of registered organisations

(1) A registered organisation may in the manner prescribed by its constitution, alter its constitution.

(2) Three copies of every resolution passed by an organisation for the alteration of the constitution of an organisation shall be transmitted to the Registrar by the secretary of the organisation, together with a statement signed by the secretary and by the president or chairperson of the organisation, affirming that the provisions of the constitution regulating the alteration of the constitution have been complied with.

(3) Where in any such resolution any organisation proposes to alter particular provisions of its constitution or to substitute a new constitution for its existing constitution, and the Registrar is satisfied that the proposed alterations or substitutions would not be inconsistent with section 7(1)(b) he or she shall approve the proposed new constitution or alteration, as the case may be, and shall return one of the copies of the resolution to the secretary of the organisation, with a certificate written thereon and signed by him or her, stating the approval and the date on which it was given; and as from that date the new constitution or the alteration, as the case may be, shall have effect.

(4) Where the Registrar fails to communicate with the secretary of the organisation within twenty-one days of receipt of the proposed alterations or substitutions the new constitution or the alterations shall have effect.

(5) Subject to section 7(1)(c), a registered organisation may change the name under which it is registered in the same manner as an alteration of the constitution, and if this section has been complied with, the Registrar shall issue a new certificate and make the necessary alterations in the registers.

18. Compliance with constitutions

(1) Subject to this Act, every officer, member or employee of an organisation shall comply with the constitution of the organisation, and every former officer, member and employee of an organisation who is required to do or refrain from doing anything by such constitution shall comply with such requirement.

(2) A member in good standing of a registered organisation or the Registrar may apply to the High Court for an injunction to prevent the contravention of the constitution of that organisation.

(3) An application under subsection (2) must be made *ex parte* by summons and supported by affidavit.

19. Improper practices in election of officers

(1) No person shall attempt to influence the outcome of an election for any office in an organisation by fraud, threat, bribery or other improper means.

(2) A member in good standing of a registered organisation or the Registrar may apply to the High Court to declare an election void and to determine the date of a fresh election.

(3) An application under subsection (2) must be made by summons supported by affidavit and must be heard *inter partes*.

(4) A person who contravenes subsection (1) shall be liable, on summary conviction, to a fine not exceeding three thousand dollars or to imprisonment not exceeding one year.

20. Criminal conviction a disqualification for office

(1) A person who was convicted of an offence involving dishonesty and sentenced to imprisonment for one year or more within five years prior to being elected to office in a registered organisation shall be disqualified from holding such office.

(2) A person who, while holding office in an organisation is convicted of an offence involving dishonesty for which a sentence of a kind described in subsection (1) was imposed shall be disqualified from holding that office at the time of conviction.

(3) In this section, “dishonesty” includes fraud, embezzlement, larceny, stealing and any like offence.

21. Rendering of account

(1) Subject to this section every treasurer or other officer of a registered organisation shall at the times prescribed by the rules of the organisation or if requested to do so, render to the members at a meeting of the organisation a true and accurate account of all monies received and paid by him or her since he or she last rendered the like account and of the balance then remaining in his or her hands and of all bonds and other securities of the organisation.

(2) An account rendered for the purposes of subsection (1) shall be audited by a suitably qualified person appointed by the Registrar on the nomination of the organisation.

(3) A nomination for the purposes of subsection (2) shall be made from a panel of suitably qualified persons chosen by the Registrar.

(4) The cost of an audit shall be borne by the organisation.

22. Handing over balance due, etc.

(1) Where an audit is being rendered under this Act, the treasurer or other officer of the registered organisation shall, if so required, hand over to that organisation the balance which on such audit appeared to be due from him or her and shall also, if required, hand over to the organisation all securities and effects, books, papers and other property of the organisation in his or her hands or custody.

(2) If the treasurer or other officer of a registered organisation fails to hand over the property of the organisation referred to in subsection (1) any member of the organisation or the Registrar may seek an injunction in any court of competent jurisdiction.

23. Action for recovery of balance due

(1) Where the treasurer or other officer fails to hand over the balance, securities, effects, books papers and other property as required by section 22, any member of the registered organisation or the Registrar may sue the treasurer or other officer in a court of competent jurisdiction to recover same.

(2) In an action for the purposes of subsection (1) the plaintiff may recover the full costs of the suit to be taxed as between attorney-at-law and client.

24. Statements of accounts, etc., to be submitted to Registrar

(1) The treasurer of every organisation (or such other officer as is designated in that behalf by the constitution of the organisation) shall, on or before the 1st April in every year, cause to be received by the Registrar—

- (a) a statement in the prescribed form of the revenue and expenditure of the organisation for the year ended on the 31st December preceding;
- (b) a statement in the prescribed form of the assets and liabilities of the organisation at the date of the statement required by paragraph (a);
- (c) an audit certificate in the prescribed form by the person or persons appointed by the Registrar to the effect that such statement of revenue and expenditure and such statement of assets and liabilities have each been audited by such person or persons, as the case may be, who have checked all accounts,

receipts, vouchers, and books of the organisation relating to transactions during the year in respect of which the statements are made up, and that such statements are made up, and that such statements have been found to be true and correct;

- (d) a return in the prescribed form showing the number of fully paid up members of the organisation at the date of such statement;
- (e) a statement showing the names and addresses of the current office-holders; and
- (f) a return relating to the year immediately preceding the date of such statements, showing—
 - (i) all new rules of the organisation and all alterations to the existing rules made during the period, and
 - (ii) all changes of officers of the organisation during the period.

(2) In addition to the statements, certificates and returns required by the provisions of subsection (1), the Registrar may at any time by order in writing require the treasurer or any other officer of an organisation to deliver to him or her, by a date to be specified in such order, detailed accounts of the revenue, expenditure, assets, liabilities and funds of the organisation in respect of any period specified in such order, and any accounts so rendered shall include such details and information, and be supported by such documents, as the Registrar in any case may require.

(3) The Registrar may, for the purposes of this section, inspect the register of any registered organisation, in order to verify its membership.

(4) Every member of an organisation shall be entitled to receive, on application to the treasurer or secretary of the organisation a copy of all or any of the statements and accounts, and of the audit certificate and returns provided for by this section, without making any payment therefor.

(5) The treasurer shall cause a copy of all such statements, accounts and audit certificates to be posted up in a conspicuous place at each office of the organisation.

(6) Every organisation which, and every officer of an organisation who contravenes any provision or requirement of subsection (1) or any order of the Registrar under subsection (2), and every treasurer and secretary of an organisation who fails to comply with an application made under subsection (4), commits an offence and shall be liable, on summary conviction, to a fine of ten thousand dollars or imprisonment for one year.

(7) Upon a conviction for any offence under subsection (6) the magistrate of the district in which the registered office of the organisation is situate may order the offending organisation or any specified officer thereof (whether or not such officer has been convicted) to deliver to the Registrar by a specified date (which shall not be later than fourteen days from the date of the order)—

- (a) all or any of the statements, certificates, and returns referred to in subsection (1), in cases where the conviction relates to an offence in respect of that subsection;
- (b) all or any of the accounts, including such details, information and documents referred to in any order made by the Registrar under subsection (2), in cases where the conviction relates to an offence in respect of a failure to comply with any such order,

and any organisation which, and any officer of an organisation who, fails to comply with such order, shall in respect of such failure be guilty of an offence and liable, on summary conviction, to a fine of one hundred dollars in respect of each day or part of a day during which such failure continues.

(8) A person who wilfully makes or causes to be made any false entry in, or any omission from any of the statements, accounts, certificates or returns required by this section shall be guilty of an offence and liable, on summary conviction, to a fine of five thousand dollars.

PART V

Freedom of Association

25. Basic employee rights

(1) Every employee has the right to—

- (a) take part in the formation of trade union or federation;
- (b) be a member of any trade union or federation;
- (c) take part in lawful trade union activities;
- (d) hold office in any trade union activities;
- (e) hold office in any trade union or federation;
- (f) exercise any right conferred or recognised by this Act or the Employment Act, 1999, and assist any employee, shop steward, safety representative, or trade union to exercise such rights.

(2) Where any employee is a member of a trade union certified as the bargaining agent such employee shall have the right to—

- (a) take part in the election of shop stewards or safety representatives;
- (b) be elected a shop steward or safety representative or be a candidate for such election;
- (c) act in the capacity of a shop steward or safety representative.

26. Employee protection regarding freedom of association

(1) An employer or person acting on an employer's behalf, or a trade union or officer of a trade union, with respect to any employee or any person seeking employment, who—

- (a) requires that he or she must not join a trade union or relinquish trade union membership;
- (b) discriminates or takes any prejudicial action, including discipline or dismissal, against such employee or person by reason of trade union membership or because of participation in lawful trade union activities;
- (c) discriminates or takes any prejudicial action, including discipline or dismissal, against such employee or person because of that employee's or person's exercise or anticipated exercise of any right conferred or recognised by this Act or the Employment Act, 1999, Chapter 89 or because of his or her participation in any capacity in a proceeding under this Act or the Employment Act, 1999;
- (d) threatens such employee or person that he or she will suffer any disadvantage from exercising any right conferred or recognised by this Act or the Employment Act, 1999 or from participating in any capacity in a proceeding under this Act or the Employment Act, 1999, Chapter 89;
- (e) promises such employee or person any benefit or advantage for not exercising any right conferred or recognised by this Act or the Employment

Act, 1999 or from participating in any capacity in a proceeding under this Act or the Employment Act, 1999, Chapter 89;

- (f) restrains or seeks to restrain such an employee or person, by a contract of employment or otherwise, from exercising any right conferred or recognised by this Act or the Employment Act, 1999, Chapter 89 or from participating in any capacity in a proceeding under this Act or the Employment Act, 1999, Chapter 89, and any contractual term which purports to exert any such restraint shall be void, whether agreed to before or after the coming into force of this Act;
- (g) imposes any discipline or disadvantage upon an employee for refusing to do work normally done by an employee who is lawfully on strike or who is locked out, unless such work must be done to prevent an actual danger to life, health, or personal safety,

commits an offence and shall be liable, on summary conviction, to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding one year, or to both such fine and imprisonment.

(2) Nothing in this section shall be interpreted as preventing an employer from dismissing or otherwise disciplining an employee for just cause, in accordance with section 73 of the Employment Act, 1999, Chapter 89.

(3) No person shall commit any act which is designed to promote the establishment of an employees' organisation under the domination of an employer or employers' organisation, or to support employees' organisations by financial or other means with the object of placing such organisations under the control of employers' or employers' organisations.

27. Basic employer rights

Every employer has the right to—

- (a) take part in the formation of any employers' organisation or federation;
- (b) be a member of any employers' organisation or federation;
- (c) take part in lawful activities of employers' organisations;
- (d) hold office in any employers' organisation or federation;
- (e) exercise any right conferred or recognised by this Act or the Employment Act, 1999, Chapter 89, and assist any employer or employers' organisation to exercise such rights.

28. Protection of organisations

(1) Any person eligible under its constitution for membership of an organisation has the right to membership in that organisation if that person pays any fees that are properly payable to it, and he or she has a right to remain a member as long as he or she complies with the constitution of the organisation.

(2) Any person eligible under subsection (1) to join has the right not to join such organisation.

(3) No organisation shall discriminate in its constitution or through its actions against any person on the grounds of race, colour, national extraction, social origin, religion, political opinion, sex, marital status, family responsibilities, age or disability, or impose any condition, restriction or obligation which is oppressive or unjust.

(4) Subsection (3) does not preclude any provision, programme or activity that has as its object the amelioration of conditions of disadvantaged individuals, including those

who are disadvantaged because of race, colour, national extraction, social origin, religion, political opinion, sex, marital status, family responsibilities, age or disability.

29. Right to be involved in federation

An organisation may form, participate in, be affiliated to or join a federation of trade unions or employers' organisations.

30. Right to join international workers' and employers' organisation

An organisation or a federation comprised solely of trade unions or employers' organisations may affiliate with and participate in the affairs of international workers' or employers' organisations, may make financial contributions to such and other organisations, and may receive financial or other assistance from them.

31. Remedies regarding infringement of freedom of association

(1) Any complaint of infringement of the rights and protection contained in the provisions of this Part may be presented to the High Court.

(2) Where it is alleged that an employee was dismissed contrary to section 26, the burden is on the defendant to prove that the dismissal had no connection to the employee's trade union membership or activities.

(3) Subject to subsection (4), where the Court finds that the complaint is well founded, it shall make such order as it deems necessary to secure compliance with the provisions of this Part, including an order for the re-instatement of an employee if requested and deemed necessary, the restoration to him or her of any benefit or advantage, and an order for the payment of compensation.

(4) Where an employee is dismissed contrary to section 26 re-instatement will be ordered by the Court, along with any other remedy the Court deems appropriate, at the request of the employee, unless re-instatement is not reasonably practicable.

32. Right to amalgamate

(1) A registered organisation may, in the manner provided for in its constitution and subject to this section, amalgamate with any other registered organisation.

(2) In the event of amalgamation, the newly constituted organisation shall assume all the rights and liabilities of its predecessor organisations unless the Court on good cause shown upon the application of an interested party directs otherwise.

PART VI

Exclusive Bargaining Rights for Trade Unions

33. Application for certification

(1) A trade union claiming to have as members in good standing a majority of the employees of an employer in a bargaining unit may, subject to the provisions of this Part, make application to the Minister to be certified as the exclusive bargaining agent of the employees in the unit.

(2) All existing trade unions which were certified as bargaining agents immediately before the coming into force of this Act shall be deemed to be certified as exclusive bargaining agents for the employees in the respective bargaining units.

(3) Where no collective agreement is in force and no trade union has been certified under this Part for the bargaining unit, the application may be made at any time.

(4) Where no collective agreement is in force but a bargaining agent has been certified under this Part for the bargaining unit, the application may be made after the expiry of twelve months from the date of certification of the bargaining agent.

(5) Where a collective agreement is in force the application may be made during the last two months of the term of the collective agreement.

34. Particulars for certification

(1) The application referred to in section 33 shall be in writing, and shall include the following—

- (a) a copy of the trade union's constitution, where the trade union is newly registered;
- (b) a description of the proposed bargaining unit; and
- (c) facts and documents upon which a trade union relies to demonstrate that the majority of employees in the bargaining unit wish to have the trade union certified as their exclusive bargaining agent;
- (d) any other matter prescribed by regulations.

(2) Notice of the application shall be served on the employer by the applicant trade union and such application shall include a description of the proposed bargaining unit.

35. Appropriateness of the bargaining unit

(1) The Labour Commissioner shall on any application for certification under section 33 first determine where necessary, the bargaining unit considered appropriate in the circumstances and in doing so the Commissioner shall have regard to—

- (a) the community of interest among the employees in the proposed bargaining unit;
- (b) the nature and scope of the duties exercised by the employees in the proposed bargaining unit; and
- (c) the views of the employer and the trade unions concerned as to the appropriateness of the bargaining unit.

(2) When making a determination under subsection (1), the Commissioner may include additional employees in or exclude employees from the bargaining unit.

36. Granting or refusing certification

(1) Within fourteen days of the receipt of an application under section 33, the Minister shall either—

- (a) refuse to certify the trade union on the grounds that the bargaining unit identified by the trade union is not appropriate and inform all interested parties in writing of his or her decision;
- (b) institute a poll of the unit specified, by secret ballot in the presence of representatives of all interested parties in order to determine whether the majority of the employees in the bargaining unit wish to have the trade union making the application certified as their sole and exclusive bargaining agent.

(2) After due determination as referred to in subsection (1)(b), the Minister shall within seven days after the poll has been conducted either—

- (a) refuse to certify the trade union on the grounds that it has not satisfied the requirement that a majority of employees in the bargaining unit wish to have the trade union certified as their sole and exclusive bargaining agent and inform all interested parties of his or her decision; or

- (b) shall issue his or her certificate to the trade union gaining the requisite majority as the bargaining agent for that unit and shall inform all interested parties that he or she has done so.

(3) A trade union whose application under this part has been unsuccessful shall not be entitled to make further application to the same employer in respect of the same or substantially the same bargaining unit until the expiration of ninety days.

37. Direct effect of certification

Where a trade union is certified under this Act as the exclusive bargaining agent for the employees in the bargaining unit—

- (a) the trade union shall replace any other trade union that was the bargaining agent for the employees in the bargaining unit before such certification and, shall have exclusive authority to bargain collectively on behalf of the employees in the bargaining unit and to bind them by a collective agreement so long as such certification remains in force;
- (b) if another trade union had previously been certified or was deemed to have been certified in respect of employees in the bargaining unit, the certification of the last mentioned trade union shall be deemed to be revoked in respect of such employees;
- (c) the certified trade union is substituted as a party to any collective agreement applicable to any employees in the bargaining unit in the place of the bargaining agent named in the collective agreement.

38. Revocation of exclusive bargaining rights

(1) Any time after one year from the certification of a trade union as the exclusive bargaining agent of a bargaining unit, any employee in that bargaining unit may apply to the Minister for the withdrawal of the certification on the basis that the majority of the employees in the bargaining unit no longer wish to have the trade union as their exclusive bargaining agent.

(2) An application under subsection (1) shall be accompanied by evidence that at least sixty per cent of the employees in the bargaining unit do not wish to have the trade union as their exclusive bargaining agent.

(3) Within fourteen days of receiving an application under subsection (1) accompanied by sufficient evidence as required by subsection (2), the Minister shall conduct a representation vote of the employees in the bargaining unit by secret ballot.

(4) After a representation vote under subsection (3), the Minister shall refuse the application unless sixty per cent of those employees in the bargaining unit vote against having the trade union represent the bargaining unit as the exclusive bargaining agent, in which case the Minister shall cancel the certification of the trade union.

(5) If the certification of a trade union is cancelled under this section, no trade union shall apply for certification as bargaining agent for the employees in the bargaining unit until a period of thirty days has elapsed.

(6) If the application for cancellation of the certification is refused, no one may bring a further application for decertification until a period of twelve months has elapsed.

39. Appeal to High Court regarding section 36

(1) Where a trade union or an employer is dissatisfied with the conduct of a poll under section 36, the trade union or employer shall, within fourteen days after the issuance or official notice of non-issuance of a certificate, give notice of appeal to the High Court setting out therein the grounds of the appeal.

(2) The High Court shall hear and determine the matter in summary manner and may affirm or vary the Minister's certificate, or order a count or a re-count, or make any other order it considers appropriate including an order as to costs.

(3) Any action taken or agreement made by or between the bargaining agent certified by the Minister and the employer shall be deemed to be valid up to and including the date of the decision of the High Court on such an appeal.

(4) A decision of the High Court under this section shall be final.

(5) In making a determination under this section, the High Court shall endeavour in its decision to promote over time a system of orderly and effective collective bargaining.

PART VII

General Effects of Certification

40. Duty of fair representation

(1) Where a trade union has been certified as the exclusive bargaining agent for a bargaining unit, that trade union shall provide full and proper representation of the interests of all employees in the bargaining unit with respect to their rights under the collective agreement.

(2) Any employee in the bargaining unit may apply to the High Court for an order directing the trade union to cease a violation of subsection (1) and to direct that the act or omission be rectified.

41. Duty to negotiate in good faith

(1) Where certification is granted pursuant to section 36, a trade union, employer or employers' organisation shall not fail or refuse to bargain collectively in good faith and to make every reasonable effort to conclude a collective agreement.

(2) Any person affected by a violation of subsection (1) may apply to the High Court and the High Court may make any order it deems necessary to ensure compliance with this section and to rectify the matter.

(3) An employer or any person acting on his or her behalf who fails or refuses to treat or enter into negotiations with a trade union which has been certified by the Minister, under this Act commits an offence and shall be liable, on summary conviction, to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years, or both such fine and imprisonment.

42. Access to employer's premises

(1) No employer shall deny to an officer or authorised representative of any trade union certified under section 36 such access to the employer's premises as is reasonable and necessary for the lawful activities of the trade union.

(2) In granting the access required by subsection (1), an employer may impose such restrictions as to time and place which are reasonable and necessary to avoid undue disruption of operations and in the interests of safety; but it shall not be unreasonable for an employer to refuse permission for a trade union to hold meetings of its members on the premises or property of the employer during working hours.

(3) Upon application, the High Court, if it is satisfied that an employer has unreasonably refused or limited any access required by this section, may make an order directing the granting of such access, subject to such restrictions as the Court may deem appropriate.

(4) Any representative appointed or elected to office in a trade union, shall when required by an employer whose premises he or she wishes to visit, provide proof of his or her identity and his or her credentials.

43. Deductions of trade union subscriptions and contributions

(1) An employee who is a member of a trade union which has been certified under section 36, may submit to the employer a written authorisation for the periodic deduction from the employee's wages of union dues or contributions duly payable by him or her to that trade union.

(2) An employee may revoke his or her authorisation under subsection (1) by giving two month's written notice to the employer and to the trade union concerned and the employer shall thereafter cease to make any deduction.

(3) Where a trade union has been certified as the exclusive bargaining agent for a bargaining unit, all the employees employed in that unit who have not authorised the employer to make periodic deductions as required in subsection (1) shall pay a service contribution to that trade union equal to its regular membership subscription.

(4) An employer shall make the authorised deductions of subscriptions or service contributions and shall within fifteen days of such deduction remit to the trade unions the funds so collected.

(5) The requirements under subsection (4) shall cease if and when the trade union concerned—

- (a) is no longer registered; or
- (b) is no longer certified as the exclusive bargaining agent of the employees in the bargaining unit.

(6) This section shall apply notwithstanding any other law which limits deductions by employers or other persons in respect of wages or other remuneration payable to employees.

(7) With each remittance, the employer shall give the trade union—

- (a) a schedule reflecting the names of employees from whose wages deductions of subscriptions or contributions to that trade union have been made; and
- (b) a full written account of the amounts collected and remitted.

(8) Upon application by an affected party, the High Court shall make such order as it deems necessary to ensure compliance with this section.

(9) Nothing in this section shall prevent an employer from agreeing, at the request of an employee, to make deductions or subscriptions of fees in respect of a trade union not certified under section 36.

44. Collective agreements

(1) A collective agreement shall—

- (a) be committed to writing and signed by the parties to the agreement;
- (b) contain the date on which it is to become effective;
- (c) contain effective procedures for the avoidance and settlement of disputes which procedures may include a reference of any dispute to conciliation, mediation or arbitration;
- (d) contain provisions for the settlement of differences arising out of the interpretation, application and administration of the agreement;
- (e) provide for such other matters as may be agreed between the parties to the agreement; and

(f) be lodged with the Labour Commissioner.

(2) Nothing in this section shall affect the validity of a collective agreement which is valid and subsisting immediately before the coming into force of this Act and such agreement shall remain in force until it expires or is replaced by another collective agreement.

PART VIII

Disputes Procedures

45. Action by Minister

(1) A trade dispute as defined by this Act, whether existing or apprehended, may be reported to the Minister by or on behalf of either of the parties to the dispute, or by the Labour Commissioner in his or her own discretion and the Minister shall thereupon take the matter into his or her consideration and take such steps as seem to him or her expedient for promoting settlement of such dispute.

(2) Pursuant to subsection (1), a trade dispute shall be dealt with by the following manner—

- (a) by referring the trade dispute to the Labour Commissioner at the conciliation meeting, and, if this fails to resolve the dispute;
- (b) by referring the trade dispute to the Minister at a mediation meeting;
- (c) The Labour Commissioner and the Minister shall endeavour as far as is reasonably practicable to do so, to hold the conciliation and mediation meetings respectively within thirty (30) days of referrals.

(3) If there is a trade dispute in respect of an essential service and the parties fail to comply with subsection (2), or the steps undertaken under subsection (2) fail to resolve the dispute—

- (a) the Minister shall first seek the consent of the parties to the dispute for referral of the dispute, within a time specified by him, to an Arbitration Tribunal and for its composition and terms of reference; but,
- (b) if the consent of the parties cannot be obtained within the time specified, the Minister may decide to establish an Arbitration Tribunal and determine its composition and terms of reference in his own discretion.

(4) If there is a trade dispute in respect of a service other than an essential service and the parties to the dispute fail to comply with subsection (2) or the steps taken under subsection (2) fail to resolve the dispute, the Minister may invite both parties to reach mutual agreement on the establishment of an Arbitration Tribunal, its composition and terms of reference, but no party is compelled to agree on same.

(5) Once there has been mutual agreement on the establishment of an Arbitration Tribunal in respect of an industrial dispute or, failing such agreement, the Minister has decided to establish an Arbitration Tribunal as provided by this section, the provisions of section 50 of the principal Act apply as if the dispute had been referred to an Arbitration Tribunal.

46. Power to refer dispute to Arbitration Tribunal

(1) Where a trade dispute is referred to an Arbitration Tribunal under section 45, the Tribunal must comprise either—

- (a) a sole arbitrator appointed by the Minister;

- (b) an arbitrator appointed by the Minister, assisted by one or more assessors nominated by or on behalf of the employers concerned and an equal number of assessors nominated by or on behalf of the employees concerned, all of whom shall be appointed by the Minister; or
- (c) one or more arbitrators nominated by or on behalf of the employers concerned and an equal number of arbitrator or arbitrators nominated by or on behalf of the employees concerned, and an independent Chairperson, all of whom shall be appointed by the Minister.

(2) For the purposes of subsection (1)(b), the award shall be made by the arbitrator.

(3) For the purposes of subsection (1)(c), where all the members of the Tribunal are unable to agree as to their award, the matter shall be decided by the Chairperson as sole arbitrator.

47. Vacancies on Tribunal

(1) Subject to subsection (2), where an Arbitration Tribunal consists of more than one arbitrator and a vacancy occurs in their number the Tribunal may, with the consent of the parties, act notwithstanding such vacancy.

(2) Where a vacancy in a Tribunal occurs regarding an arbitrator appointed by or on behalf of one of the parties, the Minister shall, as far as possible, fill the vacancy on the nomination by or on behalf of the party concerned.

(3) Whenever an Arbitration Tribunal consists of an arbitrator assisted by assessors and a vacancy occurs in the number of assessors the Tribunal may in the discretion of the arbitrator either act notwithstanding such vacancy, or consent to another assessor being nominated and appointed to fill such vacancy.

(4) No act, proceeding, or determination of the Tribunal shall be called in question or invalidated by reason of any such vacancy, provided that in the circumstances referred to in subsection (1) the required consent has been first obtained.

48. Right to a fair hearing

(1) Where a trade dispute is referred to an Arbitration Tribunal under section 45, the Tribunal shall afford the parties to the dispute a fair hearing.

(2) When an Arbitration Tribunal is required to give a final and binding award in a dispute, that award shall be final and binding upon both parties to the dispute notwithstanding the fact that one party did not avail itself of the right to be heard afforded by the Tribunal.

49. Award may be final and binding

(1) Where a trade dispute has been referred to an Arbitration Tribunal under section 45, the Minister may stipulate that the award of the Tribunal shall be final and binding whereupon the award shall be final and binding upon both parties to the dispute, employers and employees and such parties, both employers and employees, shall accordingly be obliged to comply fully and faithfully with all the respective terms and conditions of the award as from the date of the publication of the award under section 52, and section 60, shall apply, subject to section 62.

(2) Subject to subsection (3), where there exists in any trade or industry any arrangements for settlement by conciliation or arbitration of disputes in such trade or industry, or any branch thereof, made in pursuance of an agreement between organisations of employers and organisations of employees representative respectively of substantial proportions of the employers and employees engaged in that trade or industry, the Minister shall not, except with the consent of both parties to the dispute, and unless

and until there has been a failure to obtain a settlement by means of those arrangements, refer the matter for settlement in accordance with the foregoing provisions of this section.

(3) Where a matter has been referred for settlement in accordance with subsection (2) and there is a failure to reach a settlement or, in the opinion of the Minister, a settlement is unduly delayed, and where that matter is in an essential service, the Minister may cancel the reference under this subsection and instead refer the matter for settlement under section 45.

(4) Any award made by an Arbitration Tribunal may be given retrospective effect.

50. Referral to an Arbitration Tribunal

(1) When a trade dispute has been referred to an Arbitration Tribunal under section 45 in an essential service, so long as the matter is before the Tribunal, and until the Tribunal makes its award and the award is published under section 52, no industrial action regarding the dispute before the Tribunal shall be continued or taken or ordered by the employees or employers who are parties to the dispute or by trade unions representing them or by other employees or employers or trade unions in solidarity with or support of the employees or employers who are parties to the dispute; unless no award of the Tribunal is published within sixty days of the matter being referred to an Arbitration Tribunal under section 45 or within such extended period being not more than twenty-eight additional days as may be fixed by the Minister if special circumstances so necessitate in a particular manner.

(2) In this section, “industrial action” refers to either a lock-out, a strike or an irregular industrial action.

(3) Except as provided in subsection (1), no employer, employee or trade union shall take industrial action in respect of an essential service.

51. Conflict between award and Act

Where a trade dispute referred to an Arbitration Tribunal involves questions as to wages, or as to hours of work, or otherwise as to the terms or conditions of or affecting employment which are regulated by an Act other than this Act, the Tribunal shall not make any award which is in conflict with that Act.

52. Publication of award

An award of an Arbitration Tribunal shall be submitted to the Minister who shall as soon as possible thereafter cause the same to be published in such manner as he or she thinks fit.

53. Interpretation of award

(1) If any question arises as to the interpretation of any award of an Arbitration Tribunal, the Minister or any party to the award may apply to the Tribunal for a decision on such question, and the Tribunal shall decide the matter after affording the parties to the trade dispute to which the award relates a reasonable opportunity to be heard by the Tribunal, or without such hearing provided the consent of the parties has first been obtained.

(2) The decision of the Tribunal shall be notified to the parties having the same effect as if it were contained in the original award being as final and binding as the original award where appropriate.

54. Inquiry into trade disputes and industrial relations

(1) Where a trade dispute exists or is apprehended the Minister may, whether or not the dispute is reported to him or her under this Act, inquire into the causes and circumstances of the dispute and, if he or she thinks fit, refer any matters appearing to him or her to be connected with or relevant to the dispute to a Board of Inquiry (hereinafter referred to as the Board) appointed by him or her for the purpose of such reference, and the Board shall inquire into the matters referred to it and report thereon to the Minister.

(2) The Minister may also refer any matter connected with the economic or industrial conditions in Grenada to the Board for inquiry and report.

(3) The Board shall consist of a Chairperson and such other persons as the Minister thinks fit to appoint or may, if the Minister thinks fit, consist of one person appointed by the Minister.

55. Reports of the Board, etc.

(1) A Board of Inquiry may, if it thinks fit, make interim reports and all such reports, including a minority report, shall be submitted to the Minister.

(2) Subject to subsection (3), the Minister may cause to be published from time to time, in such manner as he or she thinks fit, any information obtained or conclusion arrived at by the Board as the result or in the course of inquiry.

(3) There shall not be included in a report or publication made or authorised by the Board or the Minister any information obtained by the Board in the course of the inquiry as to any trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through evidence given at the inquiry, except with the consent of the secretary of the trade union or of the person, firm or company in question, nor shall an individual member of the Board or any person concerned in the inquiry, without such consent, disclose any such information.

56. Evidential provision

(1) For the purpose of dealing with any matter referred to it, an Arbitration Tribunal or a Board of Inquiry, as the case may be, shall have full power by order to require any person to furnish, in writing or otherwise, such particulars in relation to such matter as the Tribunal or the Board may require, and where necessary to attend before the Tribunal or the Board and give evidence on oath or otherwise, and to require the production of documents so as to elicit all such information as in the circumstances may be considered necessary, without being bound by the rules of evidence in civil or criminal proceedings.

(2) If any witness objects to answer any question or to produce any document on the ground that it will tend to incriminate him or her or on any other lawful ground, he or she shall not be required to answer such questions or to produce such document, nor shall he or she be liable to any penalties for refusing to do so.

(3) Subject to subsection (4), a person who—

- (a) fails without reasonable excuse to furnish particulars in compliance with a requirement under subsection (1);
- (b) fails without reasonable excuse to attend before an Arbitration Tribunal in compliance with such a requirement; or
- (c) when in attendance before an Arbitration Tribunal refuses to take an oath or affirmation, or to produce a document or give evidence, in compliance with such a requirement,

commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars.

(4) A person shall not be punished for refusing to answer any question or to produce any document which he or she could not be required to answer or produce in proceedings before a court of law in Grenada, or for failing or refusing to answer any question or produce any document which is not relevant to the matter in issue.

(5) For the removal of doubt it is declared that the powers conferred on an Arbitration Tribunal by this section may be exercised either on its own volition or on the application of a party.

57. Legal representation

(1) Subject to subsection (2), it shall be in the discretion of an Arbitration Tribunal or a Board of Inquiry, as the case may be, to permit an interested person to appear by an attorney-at-law or solicitor in any proceedings or inquiry under this Act before such Tribunal or Board.

(2) Where, in setting up an Arbitration Tribunal to settle a trade dispute, the Minister stipulates that the award of the Tribunal shall be final and binding under section 49(1), the Tribunal shall permit a party to the dispute to appear by attorney-at-law in proceedings before the Tribunal if such party requests such permission from the Tribunal.

58. Sittings may be public or private

(1) An Arbitration Tribunal or a Board of Inquiry, as the case may be, may admit or exclude the public or the press from any of its sittings.

(2) Whenever the press shall have been allowed to be present at a sitting of the Tribunal or of the Board, and not otherwise, a fair and accurate report or summary of the proceedings including the evidence adduced at that sitting may be published.

(3) Unless the award or the result of the inquiry has been published by order of the Minister no comment shall be published in respect of the proceedings or the evidence.

(4) A person who contravenes subsection (3) commits an offence and shall be liable, on summary conviction, to a fine not exceeding five thousand dollars.

59. Expenses

(1) If The Minister appoints an Arbitration Tribunal in his own discretion under section 45, the expenses associated with the sitting of the Tribunal shall be a charge on the Consolidated Fund.

(2) If the parties to a trade dispute mutually agree to refer the dispute to an Arbitration Tribunal for settlement, the expenses associated with the sitting of the Tribunal shall be shared equally between the parties.

(3) The Minister may establish a schedule of fees payable to arbitrators, assessors or members of a Board of Enquiry to be used as a guide.

(4) Subject to subsection (5), the Department of Labour shall provide secretarial services and accommodation for a Tribunal at no expense to the parties.

(5) If the parties agree to provide their own secretarial services and accommodation they may do so, sharing the costs between them.

60. Enforcement of award

(1) Where in relation to a trade dispute an Arbitration Tribunal makes an award that is final and binding under section 49(1), and that award contains terms and conditions in favour of the relevant employees including a term requiring that an increase in remuneration be paid to the relevant employees, if the employer does not comply with any such term, or condition, any of the employees may enforce such term relating to

increased remuneration in the courts by a civil suit for money due and owing and may enforce the other terms and conditions by a civil suit in the High Court.

(2) If an employer dismisses an employee in consequence of an award made by an Arbitration Tribunal when such dismissal is not in accordance with such award, or if an employer dismisses an employee because the employee has taken action under subsection (1) to enforce an award made by an Arbitration Tribunal under section 49(1), or if an employer dismisses an employee in violation of section 26 of this Act, the dismissal shall be unfair, and the employee or former employee may bring a civil suit in the High Court against the employer or former employer in respect of such unfair dismissal.

(3) On such an action, if satisfied that the employee or former employee has proved his or her case, the High Court may, at the election of the employee or former employee order the re-instatement or re-engagement of the employee or former employee in the employment of the employer or former employer; or order the employer or former employer to pay compensation to the employee or former employee.

(4) Where in relation to a trade dispute an Arbitration Tribunal makes an award that is final and binding by virtue of section 49(1), if any employee involved in the dispute does not abide by the award the employer may bring a civil suit in the High Court against the employee for damages for breach of any obligation imposed in favour of the employer, and—

- (a) terminate the employee's employment;
- (b) but no employer may terminate an employee's employment under this subsection without first obtaining from the High Court in a civil suit a declaration that the employee did not abide by the award and on that account may be dismissed.

(5) Where an employer terminates an employee's employment for not abiding by an award without the employer complying with subsection (4), such dismissal shall be unfair, and the employee or former employee may bring a civil suit in the High Court against the employer or former employer in respect of such dismissal; whereupon if the High Court is satisfied that the employee or former employee did abide by the award, it may, at the election of the employee or former employee—

- (a) order the re-instatement or re-engagement of the employee or former employee in the employment of the employer or former employer; or
- (b) order the employer or former employer to pay compensation to the employee or former employee.

(6) Where in relation to a trade dispute an Arbitration Tribunal makes an award that is final and binding under section 49(1), if any party to the dispute does not abide by the award, the other party in whose favour the award is made may bring a civil suit in the courts against the offending party for damages for breach of any obligation imposed by the award on the offending party in favour of the party bringing the suit.

61. Right of appeal regarding section 60

(1) Where an employer or employee is dissatisfied with a decision of the High Court under section 60(2) or (5), an appeal lies to the Court of Appeal.

(2) Where a civil suit is brought under section 60(1) or (6) in a court subordinate to the High Court, an appeal lies to the Court of Appeal.

(3) Where a civil suit is brought under section 60(1) or (6) in the High Court, an appeal lies from the decision of the High Court to the Court of Appeal.

(4) Where a civil suit is brought to the courts or to the High Court, or reaches the Court of Appeal, under any of the provisions of this section for the purpose of raising matters which under this section may be litigated regarding an award made by an

Arbitration Tribunal, the courts or the High Court or the Court of Appeal, as the case may be, shall not have jurisdiction to consider the merits of the award made by the Tribunal but instead shall concern themselves only with matters of law.

(5) Without prejudice to section 60, where an award is final and binding by reason of section 49 the terms of the award shall, as from the date of the publication of the award under section 52, or as from such date as may be specified therein pursuant to section 64, be deemed to be implied terms of the contract between the employers and the employees to whom such award relates, until the same are varied by a subsequent binding award or by agreement between the parties, and being implied terms of the contract, the terms of the award may be enforced by a civil suit in the appropriate order.

62. Right of appeal on questions of law

(1) When a trade dispute has been referred to an Arbitration Tribunal under section 49 and the Tribunal makes an award in settlement of the dispute, any party to the dispute may appeal to the High Court against the award on any question of law, but no appeal shall lie against the award on any question of fact.

(2) When an appeal has been made under subsection (1) to the High Court from an Arbitration Tribunal, a further appeal lies to the Court of Appeal from the decision of the High Court on a question of law raised before the High Court, but no appeal shall lie to the Court of Appeal on any question of fact.

63. Limitation on rights of appeal

(1) Unless a period is expressly specified, the notice of appeal from an award or decision of an Arbitration Tribunal or the High Court as the case may be, to the Court of Appeal must be filed within four weeks from the date of the publication or delivery of the award or decision, as the case requires.

(2) A notice of appeal must specify the grounds of appeal.

(3) Where the award of an Arbitration Tribunal is appealed under section 62, the award of the Tribunal shall be stayed.

PART IX

Employees' Ancillary Rights, etc.

64. Peaceful picketing and prevention of intimidation

Notwithstanding anything contained in this Act or any other law to the contrary, one or more persons acting on their own behalf or on behalf of a trade union or of an individual employer or firm in contemplation or furtherance of a trade dispute, may attend at or near a place where a person works or carries on business or happens to be, if they so attend merely for the purpose of peacefully obtaining or communicating information or of peacefully persuading any person to work or abstain from working.

65. Refusal to do strikers' work

An employee or a number of employees in concert may refuse to do any work normally done by an employee or employees who are on strike in conformity with this Act, unless such work must be done to prevent an actual danger to life, health or personal safety.

66. Right to return to work after strike action

(1) If an employee, who has participated in a strike in conformity with, this Act or who has been locked out by his or her employer, presents himself or herself for work not more than two working days after the end of the strike or lock-out, the employer shall, within a reasonable period, re-instate such employee in the employment which he or she held immediately prior to the strike or lock-out, unless material changes to the employer's operations have resulted in the abolition of such employment.

(2) Nothing contained in this section shall absolve an employer from ensuring that any termination of employment satisfies the requirement of Part IX of the Employment Act 1999, Chapter 89.

67. Negation of conspiracy regarding trade disputes

(1) An agreement or combination of two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be triable as a conspiracy if such act committed by one person would not be punishable as a crime.

(2) An act done in pursuance of an agreement or combination by two or more persons, if done in contemplation or furtherance of a trade dispute, shall not be actionable unless the act, if done without any such agreement or combination, would be actionable.

(3) Nothing in this section shall exempt from punishment any person guilty of a conspiracy for which a punishment is awarded by any written law.

(4) Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace or sedition or any offence against the State or the Sovereign.

(5) A crime for the purposes of this section means an offence for the commission of which the offender is liable to imprisonment either absolutely or at the discretion of the court as an alternative for some other punishment.

(6) Where a person is convicted of any such agreement or combination as aforesaid to do or procure to be done an act which is punishable on summary conviction, and is sentenced to imprisonment, the imprisonment shall not exceed three months, or such longer time, if any, as may have been prescribed by the law for the punishment of the said act when committed by one person.

68. Negation of liability regarding interfering with another's business

An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable on the ground only that it induces some other person to break a contract of employment or that it is an interference with the trade, business, or employment of some other person, or with the right of some other person to dispose of his or her capital or his or her labour as he or she wills.

69. Intimidation or annoyance

Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority—

- (a) uses violence to, or intimidates, such other person or his wife or children, or injures his property;
- (b) persistently follows such other person about from place to place;
- (c) hides any tools, clothes, or other property owned or used by such other person, or deprives him or her of, or hinders him or her in, the use thereof;
- (d) watches or besets the house or other place where such other person resides or works or carries on business or happens to be, or the approach to such house or place; or

- (e) follows such other person with two or more other persons in a disorderly manner in or through any street or road,

commits an offence and shall be liable, on summary conviction, to a fine not exceeding two thousand dollars or to a term of imprisonment not exceeding three months, or to both such fine and imprisonment.

PART X

Miscellaneous

70. General penalty

A person who contravenes any express prohibition contained in this Act for which no penalty is prescribed shall be liable, on summary conviction, to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding six months.

71. Rules and regulations

(1) The Minister may make rules and regulations generally respecting registration under this Act, but without prejudice to the generality of the foregoing, with respect to—

- (a) the seal, if any, to be used by the Registrar for the purpose of registration under this Act;
- (b) the forms to be used for such registration and other forms that are necessary or required to be prescribed;
- (c) the inspection of registers and documents kept by the Registrar and the making of copies of entries therein;
- (d) the fees to be charged for registration and inspection or any other service or matter prescribed or permitted by this Act; and
- (e) generally to give effect to this Act.

(2) A penalty not exceeding five thousand dollars or a term of imprisonment not exceeding six months may be attached to rules or regulations made pursuant to subsection (1).

(3) The Minister may, after consultation with the Attorney-General, make rules regulating the procedure to be followed by an Arbitration Tribunal or a Board of Inquiry; and where any procedural matter arises in the course of an arbitration or inquiry in respect of which rules have not been made, the Tribunal or Board, as the case may be, shall regulate its own procedure in regard to the matter.

(4) Where the Minister and the Attorney-General are one and the same person, the requirement for consultation in subsection (3) shall be of no effect.

72. Repeal

The following Acts are hereby repealed—

- (a) Trade Disputes (Arbitration and Inquiry) Act, Chapter 324;
- (b) Trade Union (Recognition) Act, Chapter 325; and
- (c) Trade Unions and Trade Disputes Act, Chapter 326.

73. Commencement

This Act comes into force on the 17th day of April, 2000.

First Schedule

LABOUR RELATIONS ACT

Matters that must be Provided for in Organisations' Constitution

[Section 16.]

1. The name of the organisation.
2. The whole of the objects for which the organisation is to be established, the purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby and the fines and forfeitures to be imposed on any member of the organisation. Where the objects for which the organisation is to be established include political objects, the portion of each member's subscription which is to be used for these objects and the methods used for providing for a member's exemption if he or she elects not to contribute to the political fund.
3. The manner of making, altering, amending and rescinding the constitution.
4. A provision for the appointment and removal of a general committee of management, of a treasurer and other officers.
5. A provision for the keeping of full and accurate accounts biennially by the treasurer, including a separate account for the political fund where applicable.
6. A provision for the investment of the funds or their deposit in a bank and for an annual or periodical audit of accounts.
7. The inspection of the books and names of members of the organisation by every person having an interest in the funds of the organisation.
8. The manner of dissolving the organisation.
9. A provision for members to elect delegates to or allow for rank and file participation at an annual or biennial conference of the organisation.
10. Provision for the taking of all decisions in respect of the election of officers, the amendment of rules, strikes, lock-outs and dissolution by secret ballot.

Second Schedule

LABOUR RELATIONS ACT

Essential Services

1. Electricity
2. Water
3. Public Health protection services including sanitation
4. Government hospitals, including nursing services in such hospitals
5. Airport including operational ancillary services related to civil aviation such as meteorology, ground handling and in-flight catering
6. Sea Port and Dock Services including Pilotage
7. Fire
8. Air Traffic Control

- 9. Telephone, telegraph and overseas telecommunication
- 10. Prisons
- 11. Police

CHAPTER 157A
LABOUR RELATIONS ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
