

LAWS OF FIJI

[Ed. 1978]

CHAPTER 97

TRADE DISPUTES ACT, 1978

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CHAPTER 97

TRADE DISPUTES

Acts Nos. 7 of 1973, 11 of 1976

AN ACT TO MAKE PROVISION FOR THE SETTLEMENT OF TRADE DISPUTES AND THE REGULATION OF INDUSTRIAL RELATIONS

[27th April, 1973]

PART I-PRELIMINARY

Short title and application

1. (1) This Act may be cited as the Trade Disputes Act.

(2) This Act shall not apply to members of-

- (a) the Royal Fiji Military Forces;
- (b) the Royal Fiji Police Force; and
- (c) the Fiji Prisons Service,

but otherwise shall apply to employees employed by or under the Government of Fiji in the same manner as if they were employed by or under a private person.

Interpretation

2. In this Act, unless the context otherwise requires-

"award" includes a negotiated agreement which is deemed to be an award under the provisions of this Act;

"Board" means a Board of Inquiry constituted under the provisions of this Act;

"boycott" means the combining of persons in systematically refusing to hold, or abstaining from holding, relations or dealings of any kind whatsoever with another person on account of differences with such other person so as to punish him for the position he has taken up or to coerce him into abandoning such position;

"collective agreement" means any agreement which-

(a) is made by or on behalf of one or more organisations of employees and one or more employers or organisations of employers; and

(b) prescribes (wholly or in part) the terms and conditions of employment of employees of one or more descriptions, or a procedure agreement, or both;

"conciliation committee" means the committee referred to in paragraph (g) of section 4;

"employee" means any person who has entered into or works under a contract of service with an employer, whether the contract is for manual labour, clerical work or otherwise,

is expressed or implied, is entered into orally or in writing, and whether it is a contract of service or apprenticeship or learnership or a contract personally to execute any work or labour;

"employer" means any person or any firm, corporation or company, public authority or body of persons who or which has entered into a contract of service, as defined by the Employment Act, to employ any person, and includes the Government or any local government authority; (*Cap. 92.*)

"essential service" means any service by whomsoever rendered and whether rendered to the Government or to any other person, which is specified in the Schedule;

"industry" includes-

(a) any business, trade, manufacture, undertaking, or calling of employers;

(b) any calling, service, employment, handicraft, or industrial occupation or vocation of employees; and

(c) a branch of an industry and a group of industries;

"lock out" means the closing of a place of employment, or the suspension of work, or the refusal of an employer to continue to employ any number of persons employed by him, done in consequence of a trade dispute, not with the intention of finally determining employment but with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

"officer" when used with reference to an organisation, includes any member of the executive committee thereof and any officer of a branch thereof;

"organisation" means a trade union or other association of persons which is representative of employees or employers, as the case may be;

"Permanent Secretary" means the Permanent Secretary for Labour;

"procedure agreement" means an agreement referred to in section 34;

"strike" means the cessation of work by a body of employees acting in combination, or a concerted refusal or a refusal under a common understanding of any number of employees to continue to work for an employer, done as a means of compelling their employer or any employee or body of employees, or to aid other employees in compelling their employer or any employee or body of employees, to accept or not to accept terms or conditions of or affecting employment;

"trade dispute" means any dispute or difference between employers and employees, or between employees and employees or between employees and any authority or body, connected with the employment or non-employment, or with the terms of employment, or with the conditions of labour, of any person:

Provided that no trade dispute in the sugar industry shall be deemed to be a trade dispute for the purposes of this Act unless and until the Minister responsible for the sugar industry acting under the provisions of subsection (6) of section 14 of the Sugar Industry Act decides that such trade dispute shall be dealt with under the provisions of this Act; (*Cap. 206.*)

"trade union" means a trade union registered under the provisions of the Trade Unions Act; (*Cap. 96.*)

"Tribunal" means an Arbitration Tribunal constituted under the provisions of this Act.

PART II-PROCEDURE FOR SETTLEMENT OF DISPUTES

Reporting of trade disputes

3.- (1) Any trade dispute, whether existing or apprehended may be reported to the Permanent Secretary by or on behalf of any of the parties to the dispute.

Matters to be specified in the report

(2) A report of a trade dispute shall be made in writing and shall sufficiently specify-

- (a) the employers and employees, or the classes and categories thereof, who are parties to the dispute, and the place where the dispute exists or is apprehended;
- (b) the party or parties by whom or on whose behalf the report is made;
- (c) each and every matter over which the dispute has arisen or is apprehended; and
- (d) the steps which have been taken by the parties to obtain a settlement under any arrangements for the settlement of disputes which may exist by virtue of any registered agreement between the parties thereto.

Copies of the report to be furnished

(3) Every person reporting a trade dispute shall, without delay furnish by hand or by registered post a copy of the report thereof to each party to the dispute:

Provided that in the case of any parties to a dispute who are members of the same organisation of employers or organisation of employees the furnishing of a copy of the report to such organisation shall be a sufficient compliance with this subsection.

Steps to be taken by the Permanent Secretary

4. (1) The Permanent Secretary shall consider any trade dispute of which he has taken cognizance and may take any one or more of the following steps as seem to him expedient for promoting a settlement:-

(a) inform the parties that he accepts or rejects the report of the trade dispute, having regard to the sufficiency or otherwise of the particulars set out in the report, to the nature of the report, or to the endeavours made by any of the parties to achieve a settlement of the dispute, or having regard to any other matter which he considers to be relevant in the circumstances:

Provided that a report which has been rejected by the Permanent Secretary shall be deemed not to have been made under the provisions of this Act;

- (b) inform the parties that any of the matters over which the trade dispute has arisen or is apprehended is not a trade dispute under this Act;
- (c) refer the matter back to the parties and, if he thinks fit, make proposals to the parties or to any of them upon which a settlement of the trade dispute may be negotiated;

- (d) appoint any person (who may be a public officer or any other person considered by him to be suitable) to act as a mediator and conciliator;
- (e) endeavour to conciliate the parties by all reasonable means at his disposal;
- (f) cause an investigation of the trade dispute, or any matter connected therewith, to be made by any person who appears to the Permanent Secretary to be independent and who may or may not be a public officer;
- (g) report the trade dispute to the Minister, who may, if he thinks fit, authorise the Permanent Secretary to refer it to a conciliation committee appointed by the Minister for mediation and conciliation.

(2) The decision of the Permanent Secretary under this section shall be in writing and shall as soon as practicable be communicated in writing by hand or by registered post to the parties to the dispute or to their representatives.

Use of existing arrangements for the settlement of trade disputes

5. (1) In endeavouring to secure, by means of conciliation of the parties, the settlement of a trade dispute reported to him under section 3, the Permanent Secretary or any person appointed by him or the Minister shall, if and in so far as he considers it appropriate to do so, make use of any machinery or arrangements for the settlement of disputes which exist by virtue of any agreement between the parties to the dispute, or between organisations representing respectively a substantial proportion of the employers and employees engaged in or in any branch of the particular trade, industry, service or occupation in which the dispute arose.

(2) The Permanent Secretary may require any settlement effected as provided for in subsection (1) to be recorded in writing by the parties thereto and on being endorsed by the Permanent Secretary the settlement shall be a negotiated agreement and shall be deemed to be an award.

Reference of trade disputes to Tribunal

6. (1) Where the Permanent Secretary or any person appointed by him or by the Minister is unable to effect a settlement the Permanent Secretary shall report the trade dispute to the Minister who may, subject as hereinafter provided, if he thinks fit, and if both parties consent, and agree in writing to accept the award of the Tribunal, authorise the Permanent Secretary to refer such trade dispute to a Tribunal for settlement.

(2) The Minister may authorise the Permanent Secretary, whether or not the parties consent, to refer a dispute to a Tribunal where-

- (a) a strike or lock out arising out of a trade dispute, whether reported or not, has been declared by order of the Minister to be unlawful as provided for under section 8; or
- (b) a trade dispute, whether reported or not, involves an essential service; or
- (c) the Minister is satisfied that a trade dispute, whether reported or not, has jeopardised or may jeopardise the essentials of life or livelihood of the nation as a whole or of a

significant section of the nation or may endanger the public safety or the life of the community.

(3) The Tribunal after hearing the parties to a trade dispute shall make an award and such award shall be binding on the parties to the dispute.

(4) Where a trade dispute has been referred to a Tribunal or to conciliation under this Act, the Minister may by order prohibit the continuance of and declare unlawful any strike or lock out in connection with such dispute which may be in existence on the date of the reference.

Board of Inquiry

7. (1) Notwithstanding any other provisions of this Part, where any trade dispute exists or a strike or lock out is apprehended, the Permanent Secretary may, whether or not the trade dispute is reported to him under the provisions of this Act, inquire into the causes and circumstances of such trade dispute.

(2) The Permanent Secretary, if he thinks fit, shall report any matters appearing to him to be connected with or relevant to such trade dispute to the Minister who may direct the Permanent Secretary to refer such trade dispute to a Board of Inquiry and the Board shall inquire into the matters referred to it and report thereon to the Minister.

(3) The Minister may at any time, where a trade dispute exists or is apprehended, direct the Permanent Secretary to refer any matters connected with the economic or industrial conditions of Fiji to a Board of Inquiry which shall inquire into the matters referred to it and report thereon to the Minister.

PART III-ADHERENCE TO AGREEMENTS AND AWARDS

Strike or lock out unlawful where procedures have not been exhausted

8. Where it appears to the Minister that there is an actual or a declared strike or lock out arising out of a trade dispute in any industry or section of industry, and the Minister is satisfied that all practicable means of reaching a settlement of that dispute through the procedure laid down in the registered agreement or, where no such procedure is provided in the agreement, under the provisions of this Act have not been exhausted he may by order declare such strike or lock out to be unlawful:

Provided that any strike or lock out shall not be unlawful if 42 days have elapsed since the date on which the report of the dispute causing such strike or lock out was accepted by the Permanent Secretary and the dispute has not within that time been settled or directed by the Minister to be referred to a Tribunal for settlement.

Strike or lock out unlawful where awards, agreements, etc., are still in force

9. Where it appears to the Minister that there is an actual or a declared strike or lock out arising out of a trade dispute in any industry or any section of industry and the Minister is satisfied-

(a) that the matters to which the trade dispute relates have been settled by an agreement or award; and

(b) that the agreement or award is expressed to have effect until a date which has not been reached,

the Minister may if he thinks fit-

(i) require the parties to the dispute to show cause as to why they should not be required to comply with that agreement or award until the date on which it would cease to have effect; or

(ii) invite the parties to the dispute to comply with that agreement or award; or

(iii) require the parties by order to comply with that agreement or award;

(iv) declare any strike or lock out (whether actual or imminent) in that industry or section of industry to be unlawful until a date specified in the order.

Sympathy and certain other strikes, etc., to be unlawful

*10. (1) Where it appears to the Minister that there is an actual or a declared strike, lock out or boycott in any trade or industry or section of industry and the Minister is satisfied-

(a) that the strike, lock out or boycott has any object other than or in addition to the furtherance of a trade dispute within that trade or industry or section of industry; or

(b) that the strike, lock out or boycott is designed or calculated to coerce any employer or employee in any other trade or industry or section of industry in respect of his conduct in or in connection with that other trade or industry or section of industry either directly or by inflicting hardship on the community,

the Minister may by order declare any strike, lock out, or boycott, whether actual or declared, in that trade or industry or section of industry to be unlawful.

(2) For the purpose of this section-

(a) a trade dispute shall not be deemed to be within a trade or industry or section of industry unless it is a dispute between employers and employees or between employees and employees, in that trade or industry or section of industry which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of persons in that trade or industry or section of industry;

(b) employees shall be deemed to be within the same trade or industry or section of industry if, and shall be deemed not to be within the same trade or industry or section of industry unless, either-

(i) they are members of, or their interests are represented by, the same trade union; or

(ii) their wages or conditions of employment are determined in whole or in part in accordance with the same agreement made with one employer or a group of employers.

* In force 8 March 1985.

See Legal Notice No. 15 of 1985.

Effective date of the order

11. (1) Any order made by the Minister under this Part shall come into force on the day following the day on which it is made unless otherwise specified.

(2) The Minister shall, for the purpose of bringing any order made by him under this section to the attention of the persons affected thereby as soon as practicable after the order has been made, publish such order in such manner as he sees fit.

Offences where strike or lock out is unlawful

12. (1) Any person who in connection with any strike, lock out or boycott declared under the provisions of this Act to be unlawful, causes or procures or counsels or in any way encourages, persuades or influences others to take part in any such strike, lock out or boycott shall be guilty of an offence.

(2) If any person guilty of an offence under this section was at the time of the offence an officer or official of an organisation of employers or employees, or was purporting to act as such an officer or official, it shall be a sufficient defence to such organisation that such person committed the offence without its authority.

(3) Where any officer or official, or person purporting to act as an officer or official of an organisation of employers or employees commits an offence with the authority of that organisation, it shall be a sufficient defence to any person who at the time of the offence was an officer or official of that organisation that the offence was committed without his consent or connivance or that he exercised all reasonable diligence to prevent the commission of the offence.

(4) Any person who ceases work or refuses to continue work, being work which in terms of his employment he is bound to do, in circumstances which gives rise to reasonable suspicion that he is taking part in or acting in furtherance of an unlawful strike shall be guilty of an offence:

Provided that it shall be a sufficient defence if he satisfies the court that he ceased work, or refused to continue work, as the case may be, for causes wholly unconnected with that strike.

(5) Any trade union or employers' organisation which has been or is engaged in an unlawful strike, lock out or boycott or is in breach of any order made under this Act shall be guilty of an offence.

Prohibition of expulsion of members

13. (1) No person refusing to take part or to continue to take part in any strike, lock out or boycott which is by or under this Act declared to be unlawful, shall be, by reason of such refusal or by reason of any action taken by him under this section, subject to expulsion from any organisation, or to any fine or penalty, or to deprivation of any right or benefit to which he or his personal representatives would otherwise be entitled, or liable to be placed in any respect either directly or indirectly under any disability or to any disadvantage as compared with other members of the organisation, anything to the contrary in the constitution or rules of an organisation notwithstanding.

(2) No provisions of any law limiting the proceedings which may be entertained by any court, and nothing in the constitution or rules of any organisation requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the court may, in lieu of ordering a person who has been expelled from membership of an organisation to be restored to membership, order that he be paid out of funds of the organisation such sum by way of compensation or damages as the court thinks just.

PART IV-PROTECTION OF ESSENTIAL SERVICES, LIFE AND PROPERTY

Prohibition of breaches of service affecting essential services

14. (1) Any person who wilfully breaks his contract of service, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be-

(a) to deprive the public, or any section of the public wholly or to a great extent of an essential service, or substantially to diminish the enjoyment of that service by the public or by any section of the public; or

(b) to endanger human life or cause serious bodily injury or to expose valuable property whether real or personal, to destruction, deterioration or serious damage,

shall be guilty of an offence.

(2) Any person who causes or procures or counsels or influences any employee to break his contract of service or any employer causing a lock out to be declared in any of the circumstances referred to in subsection (1), shall be guilty of an offence.

Notice to be posted up

15. (1) Every employer in an essential service shall cause to be posted up in all premises used for the purposes of that service, a printed copy of section **14** and the Schedule in some conspicuous place where the same may conveniently be read by persons employed therein, and as often as such copy becomes defaced, obliterated, destroyed or removed,

shall cause it to be replaced with all reasonable despatch.

(2) Every employer other than the Government who fails to comply with the provisions of subsection (1) shall be guilty of an offence.

(3) Every person who unlawfully injures, defaces, obliterates, destroys or removes any printed copy posted up as required by the provisions of subsection (1) shall be guilty of an offence.

Strike or lock out in an essential service

16. (1) Where any strike or lock out is contemplated by persons employed in or in control of an essential service in pursuance of a trade dispute with their employer the following procedure shall be followed:-

(a) a report of the trade dispute shall be made to the Permanent Secretary in accordance with the provisions of section **3**;

(b) at least twenty-eight days' notice of strike or lock out shall be given in writing to the Permanent Secretary and to the employer of every person by or on behalf of whom it is given;

(c) the notice shall be signed by the person or persons giving it and specify the names, addresses and employment of all persons by, or on behalf of whom it is given and if given by a trade union, the name of such trade union;

(d) the notice shall state the date on which the strike or lock out is contemplated; and

(e) the notice shall be delivered by hand or by forwarding the same by registered post.

(2) Where the report of a trade dispute in an essential service does not comply with the provisions of subsection (1) or does not specify the date on which the strike or lock out is contemplated or the strike or lock out does not take place on the date it is contemplated the report shall be deemed not to have been made.

Persons not guilty under section 14

17. No person shall be guilty of an offence under the provisions of section **14**, if twenty-eight days have elapsed since the date on which the notice of the strike or lock out was accepted by the Permanent Secretary and the dispute has not within that time been settled or directed by the Minister to be referred to a Tribunal for settlement.

(Amended by 4 of 1976, s. 14)

PART V-CONSTITUTION OF BOARDS OR TRIBUNALS PROCEEDINGS AND AWARDS

Application of Part V

18. In this Part-

- (a) the provisions of section **19** shall apply to a Board;
- (b) the provisions of sections **20** to **22**, inclusive, shall apply to a Tribunal;
- (c) the provisions of sections **23** to **27**, inclusive, shall apply to every award, negotiated agreement or other settlement, as the case may be, which is provided for by this Act;
- (d) the provisions of sections **28** to **32**, inclusive, shall apply to every consideration, hearing, inquiry or other proceedings in connection with a trade dispute provided for by this Act whether such consideration, hearing, inquiry or other proceedings be undertaken by the Permanent Secretary, a person authorised by him, a Tribunal or a Board.

Appointment of Board of Inquiry

19. (1) A Board of Inquiry shall consist of a Chairman and such other persons as the Minister may appoint, or, if he thinks fit, it may consist of one person appointed by him.

(2) A Board may act notwithstanding any vacancy in its number.

(3) A Board may, if it thinks fit, make an interim report.

(4) A report of the Board and any minority report shall be submitted to the Minister.

(5) The Minister may cause to be published from time to time, in such manner as he thinks fit, any information obtained or conclusions arrived at by the Board as the result or in the course of an inquiry:

Provided that there shall not be included in any 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 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 any person concerned in the inquiry, without such consent, disclose any such information.

(6) Any person who prints or publishes any information or who discloses any information in contravention of the provisions of the proviso to subsection (5), shall be guilty of an offence.

Appointment of Tribunal

20. (1) An Arbitration Tribunal shall consist of either-

- (a) a sole arbitrator appointed by the Minister; or
- (b) an arbitrator appointed by the Minister assisted by one 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 approved and appointed by the Minister; or
- (c) one or more arbitrators selected from a panel nominated by or on behalf of the employers concerned and an equal number of arbitrators selected from a panel nominated by or on behalf of the employees concerned, and an independent Chairman, all of whom shall be approved and appointed by the Minister.

(2) Without prejudice to the provisions of subsection (1) the functions of a Tribunal appointed under the provisions of paragraph (a) or (b) of that subsection may be discharged by a Permanent Arbitrator appointed under the provisions of section 21.

(3) So far as is practicable, any arbitrator or assessor appointed under this section shall be a resident of Fiji.

(4) Any award made by a Tribunal appointed under the provisions of paragraph (a) or (b) of subsection (1) shall be made by the arbitrator and any award made by a Tribunal under the provisions of paragraph (c) of that subsection shall be made by all the members of such Tribunal, if they are in agreement, or, if such members are not in agreement, by the Chairman.

Appointment of Permanent Arbitrator

21. (1) The Governor-General, acting after consultation with the Minister, may appoint a person to the office of Permanent Arbitrator whose office shall not be a public office.

(2) A person shall not be qualified to hold or act in the office of Permanent Arbitrator unless he is qualified for appointment as a judge of the Supreme Court or is a person with extensive experience in economics or industrial relations.

(3) The term of office of the Permanent Arbitrator shall be for a period of three years from the date of appointment but he shall be eligible for reappointment from time to time:

Provided that where any hearing of a trade dispute or other matter referred to the Permanent Arbitrator has commenced, the term of office of the Permanent Arbitrator shall be extended until such hearing has been completed and any award made or advice furnished.

(4) If the office of Permanent Arbitrator is vacant or the person holding the office of Permanent Arbitrator is for any reason unable to perform the functions of his office, the Governor-General, acting after consultation with the Minister, may appoint a person qualified to be a Permanent Arbitrator to carry out the functions of the Permanent Arbitrator.

(5) A person appointed under the provisions of subsection (4) to act as Permanent Arbitrator shall continue to act for the period of his appointment or if no such period is specified until his appointment is revoked by the Governor-General, acting after consultation with the Minister:

Provided that where any hearing of a trade dispute or other matter referred to the person appointed to act as Permanent Arbitrator has commenced the term of office of the person appointed to act as Permanent Arbitrator shall be extended until such hearing has been completed and any award made or advice furnished.

(6) Except insofar as may be inconsistent with the provisions of this section the other provisions of this Act relating to a Tribunal appointed under the provisions of paragraph (a) or (b) of subsection (1) of section 20 shall, *mutatis mutandis*, apply to the Permanent Arbitrator appointed under this section.

(Section inserted by 11 of 1976, s. 3)

Vacancies in the Tribunal

22. (1) Where a Tribunal consists of more than one arbitrator and a vacancy occurs in their number the Tribunal may, with the consent of all parties to the trade dispute, continue to act notwithstanding such vacancy.

(2) Where a Tribunal consists of an arbitrator assisted by assessors, and any vacancy occurs in the number of assessors, the Tribunal may in the discretion of the arbitrator either act notwithstanding such vacancy or the vacancy may be filled by the nomination and the appointment of another assessor.

(3) Where, in the circumstances referred to in subsections (1) or (2) the required consent has been obtained or the required discretion has been exercised, as the case may be, no act, proceeding or determination of a Tribunal shall be called in question or invalidated by reason of any vacancy having occurred in the number of members of such Tribunal.

Award to be made without delay

23. A Tribunal shall make its award or, as the case may be, furnish its advice on any matter referred to it under the provisions of this Act without delay and in any case within twenty-eight days from the date of reference thereto:

Provided that the Minister, if in his opinion the circumstances of the case make it necessary or desirable so to do, extend such period of twenty-eight days for such further period as he thinks fit.

Award may be retrospective

24. Any award or agreement concerning a trade dispute which is made or effected by the Permanent Secretary, a Tribunal or otherwise, may be made so as to have retrospective effect.

Award of Tribunal not to conflict with any law

25. Where any 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 or under any written law other than this Act, the Tribunal shall not make any award which is inconsistent with the provisions of that written law or which is less favourable to the employees than any award or order lawfully made in pursuance thereof.

Publication of the award

26. Any 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 thinks fit.

Interpretation of award

27. (1) If any question arises as to the interpretation of any award of a Tribunal, the Minister or the Permanent Secretary or any party to the award may apply to the Tribunal for the determination of such question, and the Tribunal shall decide the matter either after hearing the parties, or without hearing the parties if it thinks fit. The determination of the Tribunal shall be notified to the parties and shall thereafter be deemed to form part of and shall have the same effect in all respects as the original award.

(2) If any question arises as to the interpretation of any award, negotiated agreement, or any other settlement, made or effected by the Permanent Secretary or otherwise under the provisions of this Act other than by a Tribunal, subsection (1) shall apply in every respect, except that the Permanent Secretary shall perform the functions assigned to the Tribunal in such subsection.

Variation of awards

28. No application to vary any award shall, except with the permission in writing of the Minister, be made within nine months of the publication of the award.

Appointments to be final

29. Any appointment made by the Minister to a Board or a Tribunal shall be final and shall not be questioned by any party to the trade dispute.

Regulation of proceedings

30. Save as is otherwise expressly provided for in this Act, or in the regulations made thereunder, a Tribunal or a Board, as the case may be, shall have the powers of a Commissioner under the Commissions of Inquiry Act and may regulate the procedure in any proceedings under this Act as he or it shall think fit. (*Cap. 47.*)

Evidence

31. (1) A Tribunal or a Board, for the purpose of dealing with any matter referred to it under the provisions of this Act, shall be entitled 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, and may by order "require any person-

(a) to furnish, in writing or otherwise, such particulars in relation to any matter as may be required;

(b) to appear before the Tribunal or the Board and give evidence on oath or otherwise; and

(c) to produce any relevant documents as may be required:

Provided that if any witness objects to furnishing any particulars or to answering any question or to producing any document on the ground that the contents thereof are confidential or that it will tend to incriminate him or on any other lawful ground, he shall subject as hereinafter mentioned not be required to furnish such particulars or to answer such question or to produce such document, nor shall he be liable to any penalties for refusing to do so, but the Tribunal or Board may where the contents of the documents are confidential order that they be discussed in camera and may in such order make such arrangements as may be appropriate to preserve the confidential nature of the document.

(2) A conciliation committee, for the purpose of dealing with any matter referred to it under the provisions of this Act, may by order require parties to a dispute to appear before it.

(3) Any person who, without lawful excuse, fails to obey an order given under the provisions of subsections (1) or (2) shall be guilty of an offence.

(4) Any person who, being required by an order made under subsection (1) to furnish information makes any statement or furnishes any information which he knows, or has reasonable cause to believe, to be false or misleading in a material particular shall be guilty of an offence.

Representation of parties

32. (1) In any proceedings under this Act before the Permanent Secretary, a person pointed by him, or a Tribunal or a Board, a party-

- (a) may appear personally; or
- (b) may be represented by a barrister and solicitor or as provided by subsection (2).

(2) A party-

- (a) being an organization, may, with leave, be represented by a member, officer or employee of the organization or
- (b) not being an organization, may, with leave, be represented by-
 - (i) an employee of that party; or
 - (ii) a member, officer or employee of an organization of which that party is a member.

Sitting may be in public or private

33. (1) It shall be in the discretion of a Tribunal or a Board, as the case may be, in any proceedings under this Act, to exclude the public or representatives of the news media.

(2) Wherever any representatives of the news media have been present at any such proceedings, a fair and accurate report or summary of the proceedings including the evidence adduced at such proceedings may be published:

Provided however that until 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 of any evidence adduced at such proceedings.

(3) Any person who contravenes any provision of subsection (2) shall be guilty of an offence.

PART VI-MISCELLANEOUS

Agreements to be registered

34. (1) A copy of every collective agreement and any amendment thereof regulating the terms and conditions of employment of employees of one or more descriptions or determining in relation to employees of one or more descriptions, any matters for which a procedure agreement can provide shall be registered with the Permanent Secretary.

(2) The terms of every such agreement shall be set out in writing, shall be endorsed by or on behalf of the parties, and, where appropriate, by the conciliator or the chairman of the conciliation committee concerned.

(3) It shall be the duty of every party to every such agreement to secure that a signed copy of such agreement is lodged with the Permanent Secretary within twenty-eight days after it is made.

(4) Every collective agreement in force at the commencement of this Act shall be deemed to have been made and registered under the provisions of this Act, and it shall be the duty

of every party to any such agreement to ensure that a signed copy of every such agreement shall be lodged with the Permanent Secretary within three months of such commencement.

(5) The Minister may by order prescribe those matters, including provision for the settlement of grievances, for which provision shall be made in a procedure agreement.

(6) On receipt of any such agreement the Permanent Secretary shall either-

(a) notify the parties of any matters which he is satisfied are contrary to the provisions of this Act or of any other written law; or

(b) notify the parties that the agreement has been registered.

(7) The provisions of any such agreement shall be an implied condition of contract between every employee and employer to whom the agreement applies.

(8) A registered agreement shall, subject to the provisions of section 24, take effect from the date on which it is signed by the parties or on such other date as may be agreed by the parties and shall remain in force until the date on which the parties have agreed that it shall cease to have effect.

(9) Any person or organisation who or which contravenes the provisions of this section shall be guilty of an offence.

"Injury" and "intimidate".

35. In sections **36** and **37** -

"injury" includes injury to a person in respect of his business, occupation, employment or other source of income, and includes any actionable wrong;

"intimidate" means to cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or to any of his dependants or of violence or damage to any person or property.

Peaceful picketing and prevention of intimidation

36.- Notwithstanding anything contained in this Act, it shall be lawful for one or more persons acting on their own behalf or on behalf of a registered trade union or of an individual employer or firm in contemplation or furtherance of a trade dispute to 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:

Provided that it shall be an offence if they so attend in such numbers or otherwise in such manner, as to be calculated to intimidate any person in any place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace.

Intimidation or annoyance

37. Every person who, with a view to compelling 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; or

(b) persistently follows such other person about from place to place; or

(c) hides any tools, clothes or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or

(d) watches or besets the house or other place where such 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 in a disorderly manner in or through any street or road,

shall be guilty of an offence.

Penalties

38. Any person or organization who or which commits an offence under this Act shall on conviction be liable to a fine not exceeding five hundred dollars or to a term of imprisonment not exceeding twelve months or to both such fine and imprisonment:

Provided that any person or organization so convicted shall not, by reason of such conviction, be subject to civil proceedings in respect of the act or omission constituting that offence.

Regulations

39. The Minister may make regulations for the better carrying into effect of this Act and in particular for establishing the procedure to be followed in any proceedings before a Tribunal or Board or otherwise under this Act. The Permanent Secretary may give directions not inconsistent with any such regulations relating to the scope, method and conduct of any specific proceedings.

Determination by the Permanent Secretary

40. Any question as to whether a report had been made in accordance with the provisions of sections **3** and **16** or as to the time when it was made shall be determined by the Permanent Secretary and any such determination shall be final and conclusive.

Approval of Director of Public Prosecutions

41. No prosecution for an offence committed under the provisions of this Act shall be commenced except by or upon the directions of the Director of Public Prosecutions.

SCHEDULE

(Section 2)

Water Services

Electricity Services

Health Services

Hospital Services

Sanitary Services

Air Traffic Control Services

Civil Aviation Telecommunication Services

Meteorological Services

Fire Services

Telecommunications and Telegraphs

Air/Sea Rescue Services

Emergency Services in times of national disaster

Lighthouse Services

Mine Pumping ventilation and winding

Air Transport

Port and docks services including stevedoring and lightering, loading and unloading of cargo from or on to any ship and despatch of any cargo to destination.

Transport Services necessary to the operation of aforementioned services or any of them.

Supply and distribution of fuel, petrol, oil, power and light essential to the maintenance of the-above services.

Controlled by Ministry for Labour, Industrial Relations and Immigration.

SUBSIDIARY LEGISLATION

CHAPTER 97

TRADE DISPUTES

SECTION 34-TRADE DISPUTES PROCEDURE AGREEMENT) ORDER

Order 24th July 1973.

Made by the Minister.

Short title

1. This Order may be cited as the Trade Disputes (Procedure Agreement) Order.

Provisions of procedure agreements

2. Every procedure agreement shall provide for the following matters:-

- (a)* negotiating rights defining the categories of employees which will be covered by the agreement;
- (b)* procedures relating to discipline;
- (c)* procedures relating to settlement of collective disputes and individual grievances at appropriate levels within the undertaking; and
- (d)* procedures relating to settlement of collective disputes and individual grievances by reference to a third party where there is a failure to reach agreement within the undertaking.

Controlled by Ministry for Labour, Industrial Relations and Immigration.