

THE LABOUR RELATIONS AND INDUSTRIAL
DISPUTES ACT

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THE LABOUR RELATIONS AND INDUSTRIAL DISPUTES ACT

Acts
14 of 1975,
13 of 1978,
14 of 1983
S. 6,
7 of 1986,
13 of 2002,
8 of 2010.

[8th April, 1975.]

PART I. *Preliminary*

1. This Act may be cited as the Labour Relations and Industrial Disputes Act. Short title.

2. In this Act unless the context otherwise requires—

Interpreta-
tion.

“action” includes any refusal or failure to act, and any reference to taking action shall be construed accordingly;

“bargaining rights” means rights to participate, on behalf of the workers in relation to whom that expression is used, in negotiations in respect of—

(a) the terms and conditions of employment of those workers, or the physical conditions in which any of them are required to work;

(b) engagement or non-engagement or termination or suspension of employment, of any worker;

(c) allocation of work as between workers or groups of workers;

“bargaining unit” means those workers or categories of workers of an employer in relation to whom collective bargaining is, or could appropriately be carried on;

“Board” means a Board of Inquiry appointed under this Act;

“collective agreement” means any agreement or arrangement which—

(a) is made (in whatever way and in whatever form) between one or more organizations representing workers and either one or more employers, one or more organizations representing employers, or a combination of one or more employers and one or more organizations representing employers;

(b) contains (wholly or in part) the terms and conditions of employment of workers of one or more categories;

“collective bargaining” means negotiations between one or more organizations representing workers and either one or more employers, one or more organizations representing employers, or a combination of one or more employers and one or more organizations representing employers;

“contract of employment” means a contract of service or of apprenticeship, whether it is express or implied, and (if it is express) whether it is oral or in writing;

“employer” means a person for whom one or more workers work or have worked or normally work or seek to work;

“essential service” means any of the services set out in the First Schedule;

First Schedule.

“industrial action” means—

(a) any lock-out; or

(b) any strike; or

(c) any course of conduct (other than a lock-out or strike) which, in contemplation or furtherance of an industrial dispute, is carried on by one or more employers or by one or more groups of workers, whether they are parties to the dispute or not, with the intention of preventing or reducing the production of goods or the provision of services;

“industrial dispute” means a dispute between one or more employers or organizations representing employers and one or more workers or organizations representing workers, and—

8/2010
S. 2.

(a) in the case of workers who are members of any trade union having bargaining rights, being a dispute relating wholly or partly to—

- (i) terms and conditions of employment, or the physical conditions in which any workers are required to work;
- (ii) engagement or non-engagement, or termination or suspension of employment, of one or more workers;
- (iii) allocation of work as between workers or groups of workers;
- (iv) any matter affecting the privileges, rights and duties of any employer or organization representing employers or of any worker or organization representing workers; or
- (v) any matter relating to bargaining rights on behalf of any worker;

(b) in the case of workers who are not members of any trade union having bargaining rights, being a dispute relating wholly to one or more of the following:

- (i) the physical conditions in which any such worker is required to work;
- (ii) the termination or suspension of employment of any such worker; or
- (iii) any matter affecting the rights and duties of any employer or organization

representing employers or of any worker or organization representing workers;

“lock-out” means action which, in contemplation or furtherance of an industrial dispute, is taken by one or more employers, whether parties to the dispute or not, and which consists of the exclusion of workers from one or more places of employment or of the suspension of work in one or more such places or of the collective, simultaneous or otherwise connected termination or suspension of employment of a group of workers;

“strike” means a concerted stoppage of work by a group of workers in contemplation or furtherance of an industrial dispute, whether those workers are parties to the dispute or not, and whether it is carried out during, or on the termination of, their employment;

“terms and conditions of employment” means the terms and conditions on which one or more workers are, or are to be, required to work for their employers;

“the Tribunal” means the Industrial Disputes Tribunal established under this Act, and includes any division thereof;

“undertaking” includes a trade or business and any activity involving the employment of workers;

“worker” means an individual who has entered into or works or normally works (or where the employment has ceased, worked) under a contract, however described, in circumstances where that individual works under the direction, supervision and control of the employer regarding hours of work, nature of work, management of discipline and such other conditions

as are similar to those which apply to an employee.

PART II. *Labour Relations*

3.—(1) The Minister shall prepare and lay before the Senate and the House of Representatives, before the end of the period of one year beginning with the 8th April, 1975, the draft of a labour relations code, containing such practical guidance as in the opinion of the Minister would be helpful for the purpose of promoting good labour relations in accordance with—

Labour
relations
code.

- (a) the principle of collective bargaining freely conducted on behalf of workers and employers and with due regard to the general interests of the public;
- (b) the principle of developing and maintaining orderly procedures in industry for the peaceful and expeditious settlement of disputes by negotiation, conciliation or arbitration;
- (c) the principle of developing and maintaining good personnel management techniques designed to secure effective co-operation between workers and their employers and to protect workers and employers against unfair labour practices.

(2) If the draft laid under subsection (1) is approved by a resolution of the Senate and of the House of Representatives the Minister shall—

- (a) cause it to be published in the *Gazette*; and
- (b) by notice published in the *Gazette* specify the date on which it shall come into operation.

(3) The Minister may from time to time revise the whole or any part of any labour relations code which is for the time being in operation under this Act, so, however, that a draft of the revised code, or of the revised part of the code, as the case may be, shall be laid before the Senate and the House of Representatives, and subsection (2) shall apply thereto as it applies to the draft laid under subsection (1).

(4) A failure on the part of any person to observe any provision of a labour relations code which is for the time being in operation shall not of itself render him liable to any proceedings; but in any proceedings before the Tribunal or a Board any provision of such code which appears to the Tribunal or a Board to be relevant to any question arising in the proceedings shall be taken into account by the Tribunal or Board in determining that question.

Rights of
workers in
respect of
trade union
membership.

4.—(1) Every worker shall, as between himself and his employer, have the right—

- (a) to be a member of such trade union as he may choose;
- (b) to take part, at any appropriate time, in the activities of any trade union of which he is a member;
- (c) not to be a member of a trade union.

13/2002
S. 3 (a) (ii).

(2) Any person who—

- (a) prevents or deters a worker from exercising any of the rights conferred on him by subsection (1); or
- (b) dismisses, penalizes or otherwise discriminates against a worker by reason of his exercising any such right,

shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars.

13/2002
S. 3 (b).

(3) Where an employer offers a benefit of any kind to any workers as an inducement to refrain from exercising a right conferred on them by subsection (1) and the employer—

- (a) confers that benefit on one or more of those workers who agree to refrain from exercising that right; and
- (b) withholds it from one or more of them who do not agree to do so,

the employer shall for the purposes of this section be regarded, in relation to any such worker as is mentioned in paragraph (b), as having thereby discriminated against him by reason of his exercising that right.

(4) In this section “appropriate time”, in relation to a worker taking part in any activities of a trade union, means time which either—

- (a) is outside his working hours; or
- (b) is a time within his working hours at which, in accordance with arrangements agreed with, or consent given on behalf of, his employer, it is permissible for him to take part in those activities,

and in this subsection “working hours”, in relation to a worker, means any time when, in accordance with his contract with his employer, he is required to be at work.

4A. Where the majority of the workers or a particular category of workers, in the employment of an employer, agree among themselves for a trade union to have bargaining rights in relation to them, the employer may recognize that trade union as having bargaining rights in relation to those workers without a ballot being taken for the purpose of determining the matter.

Employer
may
recognize
trade union
without
ballot being
taken.
13/2002
S. 4.

5.—(1) If there is any doubt or dispute—

- (a) as to whether the workers, or a particular category of the workers, in the employment of an employer wish any, and if so which, trade union to have bargaining rights in relation to them; or
- (b) as to which of two or more trade unions claiming bargaining rights in relation to such workers or category of workers should be recognized as having such bargaining rights,

Ballots to
determine
bargaining
rights.

the Minister shall cause a ballot of such workers or category of workers to be taken for the purpose of determining the matter.

13/2002
S. 5 (a).

(2) Where the Minister decides to cause any ballot to be taken under this Act he shall cause such arrangements as he thinks fit to be made to secure that the ballot is properly conducted and that the voting in the ballot will be kept secret.

(3) Where the Minister decides to cause a ballot to be taken and there is a dispute, which he has failed to settle, as respects the category of workers of whom the ballot should be taken or the persons who should be eligible to vote in the ballot, the Minister shall refer the dispute to the Tribunal for determination. The Tribunal shall, in determining any dispute referred to it under this subsection, have regard to the provisions of any regulations made under this Act and for the time being in force in relation to ballots.

13 2002
S. 5 (b).

(3A) Where under subsection (3) the Minister refers a dispute to the Tribunal, it shall be lawful for the Tribunal, in determining the dispute, to determine the bargaining unit in which the workers concerned may, for the time being, be included.

(4) The Minister shall, as soon as may be after he has ascertained the result of any ballot taken under this Act, issue to the employer and every trade union concerned in that ballot a certificate, in such form as may be prescribed, setting out the result of the ballot.

(5) If the result of the ballot shows that the majority of the workers who were eligible to vote indicated that they wish a particular trade union to have bargaining rights in relation to them, their employer shall, so soon as he receives the certificate referred to in subsection (4), recognize that trade union as having bargaining rights in relation to the workers who were eligible to vote and in relation to any bargaining unit in which they may, for the time being, be included.

(6) Where a ballot is taken for the purpose of determining which, if any, of two or more trade unions should have bargaining rights and the result of the ballot shows that

each of two or three of those trade unions receives the votes of not less than thirty *per centum* of the number of workers who were eligible to vote the Minister shall, at the request in writing of not less than two of the trade unions which received the votes as aforesaid, inform the employer in writing that those trade unions wish to be recognized as having joint bargaining rights in relation to the workers who were eligible to vote and in relation to any bargaining unit in which they may, for the time being, be included, and the employer shall, so soon as he receives such information, recognize those trade unions accordingly.

(7) Any person who, without reasonable cause—

- (a) obstructs any person authorized in writing by the Minister to take any ballot pursuant to this section while such person is carrying out his duties; or
- (b) prevents any worker who is eligible to vote in a ballot from voting,

shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred and fifty thousand dollars.

13 2002
S. 5 (c).

(8) Any employer who contravenes the provisions of subsection (5) or (6) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars and in the case of a continuing offence to a further fine not exceeding ten thousand dollars for each day on which the offence continues after conviction.

13 2002
S. 5 (d) (i).

13 2002
S. 5 (d) (ii).

(9) Subject to the provisions of subsections (2), (3) and (4) every ballot under this Act shall be taken in accordance with such procedure and subject to such conditions as shall be prescribed.

13 2002
S. 5 (e).

(10) Where, whether before or after the 8th April, 1975, bargaining rights were granted, with or without the taking of a

ballot, to a trade union in respect of workers or a particular category of workers in the employment of any employer and those rights were in existence immediately before the 28th day of March, 2002, those rights shall continue to be exercised by that trade union after that date.

Bargaining in
good faith.
13/2002
S. 6.

5A.—(1) Where pursuant to section 5 (5) or (6), a trade union is recognized as having bargaining rights in relation to workers or a category of workers, the trade union shall give to the employer, within fifteen days of being so recognized or such longer period as the trade union and the employer may agree, a notice in writing stating that the trade union is desirous of making a collective agreement with the employer.

(2) Where a claim is served by one party on the other in relation to wages and fringe benefits or other conditions of service, both parties shall, within thirty days of the date of service of the notice, conduct negotiations in good faith and make every reasonable effort to conclude a collective agreement.

Notice of
industrial
action.
13/2002
S. 6.
Fifth
Schedule.

5B.—(1) Where industrial action is contemplated to be taken in any of the services specified in the Fifth Schedule, notice in writing of such industrial action shall be given to the Minister and the employer by any party to the dispute or by any person acting on behalf of such party not less than seventy-two hours before the commencement of such industrial action.

(2) Where no notice is given pursuant to subsection (1) or notice is not given within the period specified in that subsection, the industrial action taken shall be deemed to be unlawful.

Collective
agreements.

6.—(1) Every collective agreement which is made in writing after the 8th April, 1975, shall, if it does not contain express procedure for the settlement, without stoppage of work, of industrial disputes between the parties, be deemed to contain the procedure specified in subsection (2) (in this section referred to as the implied procedure).

(2) The implied procedure shall be—

- (a) the parties shall first endeavour to settle any dispute or difference between them by negotiation; and
- (b) where the parties have tried, but failed, to settle a dispute or difference in the manner referred to in paragraph (a) any or all of them may request the Minister in writing to assist in settling it by means of conciliation; and
- (c) all the parties may request the Minister in writing to refer to the Tribunal for settlement any dispute or difference which they tried, but failed, to settle by following the procedure specified in paragraphs (a) and (b).

PART III. *Establishment and functions of the Industrial Disputes Tribunal*

7.—(1) There shall be established for the purposes of this Act a tribunal to be called the Industrial Disputes Tribunal.

Establishment of Industrial Disputes Tribunal.

(2) The provisions of sections 8 and 10 and the Second Schedule shall have effect as to the constitution of the Tribunal and otherwise in relation thereto.

Second Schedule.

8.—(1) The Tribunal shall sit in such number of divisions as may from time to time be necessary.

Tribunal to sit in divisions.

(2) A division of the Tribunal shall—

- (a) where the Tribunal proposes to deal with an industrial dispute which, in the opinion of the chairman, arises from the interpretation, application, administration or alleged violation of a collective agreement, consist of—
 - (i) one member of the Tribunal, who shall be either the chairman or one of the deputy chairmen selected by the chairman; or

- (ii) three of the members of the Tribunal selected in the manner specified in paragraph (c), if all the parties inform the chairman in writing that they wish the matter to be dealt with by a division consisting of three members;
- (b) where the Tribunal proposes to deal with an industrial dispute referred to it under section 10 and three special members are appointed in accordance with the provisions of that section for the purpose, consist of those members;
- (c) in any other case consist of—
 - (i) either the chairman or one of the deputy chairmen; and
 - (ii) one of the members of the Tribunal who was appointed by the Minister from the panel supplied to him by organizations representing employers, or from a panel constituted by him in lieu thereof, in accordance with the Second Schedule; and
 - (iii) one of the members of the Tribunal who was appointed by the Minister from the panel supplied to him by organizations representing workers, or from a panel constituted by him in lieu thereof, in accordance with the said Schedule,who shall be selected by the chairman to constitute the division.

(3) Where three of the members are selected under subsection (2) to constitute a division of the Tribunal and the chairman is one of those members, he shall preside over that division, and where the chairman is not one of those members, a deputy chairman shall preside.

(4) Where three members of the Tribunal constitute a division thereof and any one of those members dies or is

incapacitated or ceases to be a member thereof for any other reason after the division begins to deal with the industrial dispute in relation to which it was constituted but before it has made its award, another person shall be selected in accordance with the provisions of paragraph (c) of subsection (2) to fill the vacancy; thereafter the proceedings of the division shall be begun *de novo* unless all the parties to the dispute agree in writing that those proceedings may be continued as if they had not been interrupted by reason of such death or incapacity or cessation.

13 2002
S. 7 (a).

13 2002
S. 7 (b).

(5) A division of the Tribunal may, by agreement between the chairman of the Tribunal and the parties to the dispute with which the division proposes to deal, be assisted by one or more assessors appointed by the employer or an organization representing the employer and an equal number of assessors appointed by the trade union representing the workers.

(6) Where any division of the Tribunal is being assisted by assessors and any vacancy occurs in the number of assessors, that division may, by agreement between the person presiding and the party which appointed the assessor whose place has become vacant, either act notwithstanding such vacancy or permit another assessor to be appointed by that party to fill the vacancy.

(7) The validity of the proceedings of a division of the Tribunal shall not be affected—

(a) by any vacancy in the number of assessors; or

(b) by reason of the fact that such proceedings are not begun *de novo* after the filling of any such vacancy.

(8) The decisions of every division of the Tribunal which consists of three members shall be by the votes of the majority of those members and where the result of the voting in respect of any question shows that there is no agreement between any two of those members, the decision in respect of that question shall be made by the person presiding. Assessors shall not vote.

(9) The Arbitration Act shall not apply to any proceedings of the Tribunal or to any decision or award made by it.

Industrial
disputes in
undertakings
providing
essential
services.

9.—(1) Any industrial dispute existing in an undertaking which provides an essential service may be reported to the Minister in writing by any party to the dispute or by any person acting on behalf of any such party.

(2) A report under subsection (1) shall state—

- (a) whether the person making the report knows of any steps which have been taken towards a settlement of the dispute, and if so, what are those steps and the result thereof; and
- (b) whether there is in force any collective agreement between the parties to the dispute, and if so, whether such agreement includes express procedure for the settlement of disputes of the kind referred to in such report.

(3) Subject to the provisions of subsection (7), where a report is made under subsection (1) the Minister shall, during the period of ten days beginning on the day on which he receives the report—

- (a) refer the dispute to the Tribunal for settlement if he is satisfied that attempts were made, without success, to settle the dispute by such other means as were available to the parties; or
- (b) give directions in writing to the parties to pursue such means as he shall specify to settle the dispute if he is not satisfied that attempts were made to settle the dispute by all such means as were available to the parties.

(4) If any of the parties to whom the Minister gave directions under paragraph (b) of subsection (3) to pursue a means of settlement reports to him in writing that such means has been pursued without success the Minister shall

during the period of ten days beginning on the day on which he receives that report, refer the dispute to the Tribunal for settlement.

(4A) Where the Minister is satisfied that an industrial dispute exists in an undertaking which provides an essential service but no report thereof has been made to the Minister pursuant to subsection (1), the Minister may take such action under paragraph (a) or (b) of subsection (3) as he thinks fit; and where he takes action under paragraph (b), subsection (4) shall apply in relation thereto.

13/2002
S. 8.

(5) Any industrial action taken in contemplation or furtherance of an industrial dispute in any undertaking which provides an essential service is an unlawful industrial action unless—

- (a) that dispute was reported to the Minister in accordance with subsection (1) and he failed to comply with subsection (3) or subsection (4) or subsection (7); or
- (b) that dispute was referred to the Tribunal for settlement and the Tribunal failed to make an award within the period specified in section 12.

(6) The Minister may, so soon as he is satisfied that any unlawful industrial action in contemplation or furtherance of an industrial dispute in an undertaking which provides an essential service has begun, refer that dispute to the Tribunal for settlement.

(7) Where an industrial dispute exists in any undertaking which provides an essential service and the Minister is satisfied that the dispute relates to the appointment of any person to a public office or to removal of, or disciplinary action taken against, any person holding or acting in a public office, the Minister shall not refer the matter of that appointment, or removal or disciplinary action to the Tribunal but shall cause to be served on the parties directions in writing requiring them to follow, in respect of that matter, the procedure provided by or under the Constitution of Jamaica.

(8) In this section and section 10 “public office” has the meaning assigned to that expression by the Constitution of Jamaica.

Minister may
act in public
interest to
settle dispute

10.—(1) Where it appears to the Minister that—

- (a) an industrial dispute exists in any undertaking other than an undertaking which provides an essential service; and
 - (b) any industrial action in contemplation or furtherance of that dispute has begun or is likely to begin; and
 - (c) the condition specified in subsection (2) is fulfilled,
- the Minister may by order, which shall be subject to negative resolution of the House of Representatives, declare that any industrial action taken in contemplation or furtherance of that dispute is likely to be gravely injurious to the national interest.

(2) The condition referred to in paragraph (c) of subsection (1) is that the industrial action referred to in paragraph (b) of that subsection has caused, or (as the case may be) would cause, an interruption in the supply of goods or in provisions of services of such a nature, or on such a scale, as to be likely to be gravely injurious to the national interest.

(3) Where the Minister decides to make an order under this section he shall, on or before the date of publication of the order, cause to be served on the parties to the dispute—

- (a) a copy of the order; and
- (b) directions in writing requiring the parties to refrain from taking or continuing any industrial action in contemplation or furtherance of the dispute and to adopt such means as are available to them for the settlement of the dispute within thirty days from the date of service of such directions.

(4) If any of the parties referred to in subsection (3) informs the Minister in writing that all the means available to them for the settlement of the dispute were adopted,

dispute to be settled by the Tribunal, the Minister shall not refer the dispute to the Tribunal or, if he has already done so, he shall withdraw the reference.

11A.—(1) Notwithstanding the provisions of sections 9, 10 and 11, where the Minister is satisfied that an industrial dispute exists in any undertaking and should be settled expeditiously, he may on his own initiative—

Minister
may on his
own initia-
tive refer
disputes
to the
Tribunal.
13/1978
S. 2.
7/1986
S. 2.

(a) refer the dispute to the Tribunal for settlement—

(i) if he is satisfied that attempts were made, without success, to settle the dispute by such other means as were available to the parties; or

(ii) if, in his opinion, all the circumstances surrounding the dispute constitute such an urgent or exceptional situation that it would be expedient so to do;

(b) give directions in writing to the parties to pursue such means as he shall specify to settle the dispute within such period as he may specify if he is not satisfied that all attempts were made to settle the dispute by all such means as were available to the parties.

(2) If any of the parties to whom the Minister gave directions under paragraph (b) of subsection (1) to pursue a means of settlement reports to him in writing that such means has been pursued without success, the Minister may, upon the receipt of the report, or if he has not received any report at the end of any period specified in those directions, he may then, refer the dispute to the Tribunal for settlement.

11B. Notwithstanding the provisions of sections 9, 10, 11 and 11A, where an industrial dispute exists in any undertaking which relates to disciplinary action taken against a worker, the Minister shall not refer that dispute to the Tribunal unless, within twelve months of the date on which the disciplinary action became

Reference
of dispute of
discipli-
nary nature
by Minister
to the
Tribunal.
13/2002
S. 9.

effective, the worker lodged a complaint against such action with the Minister.

Awards of the
Tribunal.

12.—(1) Subject to the provisions of subsection (2) the Tribunal shall, in respect of any industrial dispute referred to it, make its award within twenty-one days after that dispute was so referred, or if it is impracticable to make the award within that period it shall do so as soon as may be practicable, and shall cause a copy of the award to be given forthwith to each of the parties and to the Minister.

(2) The period of twenty-one days specified in subsection (1) may be extended by the Tribunal—

- (a) for a further period not exceeding twenty-one days at the request of any of the parties;
- (b) for such further period beyond that specified in paragraph (a) as the Tribunal may, with the agreement of the parties, determine.

(3) The Tribunal may, in any award made by it, set out the reasons for such award if it thinks necessary or expedient so to do.

(4) An award in respect of any industrial dispute referred to the Tribunal for settlement—

- (a) may be made with retrospective effect from such date, not being earlier than the date on which that dispute first arose, as the Tribunal may determine;
- (b) shall specify the date from which it shall have effect;
- (c) shall be final and conclusive and no proceedings shall be brought in any court to impeach the validity thereof, except on a point of law.

13/2002
S. 10 (a).

(4A) Notwithstanding the provisions of paragraph (a) of subsection (4), an award made in respect of an industrial dispute referred to the Tribunal for settlement may be made with retrospective effect from a date earlier than the date on which the dispute first arose, in accordance with subsection (4B).

(4B) For the purposes of subsection (4A), where the dispute arose from— 13/2002
S. 10 (a).

- (a) the re-negotiation of a collective agreement which has expired, the award may be made with effect from the date of the expiry of that agreement;
- (b) the dismissal of a worker which is found to be unjustifiable, the award may be made with effect from the date of the dismissal;
- (c) any claim made with respect to a new bargaining unit, the award may be made with effect from such date as the Tribunal may determine.

(5) Notwithstanding anything to the contrary, where any industrial dispute has been referred to the Tribunal— 7/1986
S. 3 (a).

- (a) it may at any time after such reference—
 - (i) if industrial action has begun in contemplation or furtherance of that dispute, order that such action shall cease from such time as the Tribunal may specify; and
 - (ii) if it is satisfied that industrial action is threatened, order that such action shall not take place;
- (b) it may at any time after such reference encourage the parties to endeavour to settle the dispute by negotiation or conciliation and, if they agree to do so, may assist them in their attempt to do so;
- (c) if the dispute relates to the dismissal of a worker the Tribunal, in making its decision or award—
 - (i) may, if it finds that the dismissal was unjustifiable and that the worker wishes to be reinstated, then subject to subparagraph (iv), order the employer to reinstate him, with payment of so much wages, if any, as the Tribunal may determine; 13/2002
S. 10 (b) (i).
13/2002
S. 10 (b) (i).

- (ii) shall, if it finds that the dismissal was unjustifiable and that the worker does not wish to be reinstated, order the employer to pay the worker such compensation or to grant him such other relief as the Tribunal may determine;
- (iii) may in any other case, if it considers the circumstances appropriate, order that unless the worker is reinstated by the employer within such period as the Tribunal may specify the employer shall, at the end of that period, pay the worker such compensation or grant him such other relief as the Tribunal may determine;
- (iv) shall, if in the case of a worker employed under a contract for personal service, whether oral or in writing, it finds that a dismissal was unjustifiable, order the employer to pay the worker such compensation or to grant him such other relief as the Tribunal may determine, other than reinstatement,

13/2002
S. 10 (b) (iii).

and the employer shall comply with such order.

7/1986
S. 3 (b).

(5A) An order under paragraph (a) of subsection (5)—

- (a) may, if the Tribunal is satisfied that the circumstances so warrant, be made on an application of a party to an industrial dispute notwithstanding that a party to the dispute fails to appear before the Tribunal on the hearing of the application; and
- (b) may be published in the prescribed manner and the publication shall, without prejudice to any other form of service, be deemed to be service of notice thereon on all parties specified in the order and all persons threatening or engaged in the industrial action.

(5B) In subsection (5A) “published in the prescribed manner” means published in the *Gazette* and in at least one daily newspaper circulating in Jamaica or, where it is impracticable to publish as aforesaid, published by broadcasting, on at least two separate occasions, over a commercial broadcasting system, whether of radio or television or both, operating in Jamaica. 7 1986
S. 3 (b).

(5C) Any order made by a Tribunal pursuant to this Act shall have effect against all persons (whether or not expressly named) falling within the category of persons identified in the order as taking part or threatening to take part in industrial action. 7 1986
S. 3 (b).

(6) An award in respect of any industrial dispute referred to the Tribunal for settlement and any decision given under subsection (10) shall be binding on the employer, trade union and workers to whom the award relates and, as from the date from which the award has effect pursuant to subsection (4), it shall be an implied term of the contracts of employment of those workers that the rates of wages to be paid and the other terms and conditions of employment to be observed under such contracts of employment shall be in accordance with such award until such rates, terms and conditions are varied by agreement, or by a subsequent award, or by or under any enactment other than this Act.

(7) Where any industrial dispute referred to the Tribunal involves questions as to wages, or as to hours of work, or as to any other terms and conditions of employment, the Tribunal— 13 1978
S. 3.

- (a) shall not, if those wages, or hours of work, or conditions of employment are regulated or controlled by or under any enactment, make any award which is inconsistent with that enactment;
- (b) shall not make any award which is inconsistent with the national interest.

(8) In all legal and other proceedings relating to any award, order, requirement or decision of the Tribunal any document purporting to be a copy of such award, order, requirement or decision and having endorsed thereon a certificate signed by the chairman of the Tribunal to the effect that such document is a true copy of such award, order, requirement or decision, as the case may be, shall be received as *prima facie* evidence without proof being given that—

- (a) the signature to such certificate is that of the chairman of the Tribunal; or
- (b) the Tribunal was entitled to make such award, order, requirement or decision; or
- (c) such award, order, requirement or decision was properly made.

(9) Any person who fails to comply with any order or requirement of the Tribunal made pursuant to subsection (5), or with any other decision or any award of the Tribunal, shall be guilty of an offence and—

- (a) in the case of an employer to whom that order, requirement, decision or award relates, shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars, and in the case of a continuing offence to a further fine not exceeding twenty thousand dollars for each day on which the offence continues after conviction;
- (b) in the case of any other person to whom that order, requirement, decision or award relates, shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars, and in the case of a continuing offence to a further fine not exceeding two thousand dollars for each day on which the offence continues after conviction.

13/2002
S. 10 (c) (i).

13/2002
S.10 (c) (i).

13/2002
S. 10 (c) (ii)

13/2002
S. 10 (c) (ii).

(10) If any question arises as to the interpretation of any award of the Tribunal the Minister or any employer, trade union or worker to whom the award relates may apply to the chairman of the Tribunal for a decision on such question, and the division of the Tribunal by which such award was made shall decide the matter and give its decision in writing to the Minister and to the employer and trade union to whom the award relates, and to the worker (if any) who applied for the decision. Any person who applies for a decision under this subsection and any employer and trade union to whom the award in respect of which the application is made relates shall be entitled to be heard by the Tribunal before its decision is given.

13.—(1) Any employer who takes any unlawful industrial action shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding—

(a) five thousand dollars in respect of every worker who was employed to him immediately before such unlawful industrial action; or

(b) five hundred thousand dollars,

whichever is the less.

(2) Any worker who, during the period of any unlawful industrial action which is taken in the undertaking in which he is employed—

(a) ceases or abstains from, or refuses to continue, any work which it is his duty, under his contract of employment, to do; or

(b) carries on any other course of conduct which prevents or reduces the production of goods or the provision of services in that undertaking or which is intended to have that effect,

shall, unless he proves that he did so in any of the circumstances

Offences in connection with unlawful industrial action.

7/1986

S. 4 (a).

13/2002

S.11 (a)(i).

13/2002

S. 11 (b)(ii).

7 1986
S. 4 (b).
13. 2002
S. 11 (b).

specified in subsection (3), be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred dollars, and in the case of a continuing offence to a further fine not exceeding five thousand dollars.

(3) The circumstances referred to in subsection (2) are that the action in respect of which the worker is charged was done—

- (a) under duress and in circumstances in which he could not reasonably be expected to take any other action;
- (b) for a reason wholly unconnected with the unlawful industrial action referred to in subsection (2).

PART IV. *Boards of Inquiry*

Minister
may appoint
Boards of
Inquiry.

14.—(1) Where any industrial dispute exists or is apprehended the Minister may, whether or not that dispute is reported to him, inquire into the causes and circumstances of the dispute and, if he thinks fit, refer any matter appearing to him to be connected with or relevant to the dispute to a Board of Inquiry appointed by him for the purpose of inquiring into, reporting on, and making such recommendations as the Board thinks fit in relation to, such matter.

(2) The Minister may also refer any matter connected with labour relations or the economic conditions in Jamaica to a Board of Inquiry appointed by him for the purpose of inquiring into, reporting on, and making such recommendations as the Board thinks fit in relation to, such matter.

(3) A Board shall consist of such number of members, who shall be appointed by the Minister, as he may determine. Where the number of members is more than one the Minister shall appoint one of them to be the chairman of the Board.

(4) A Board may act notwithstanding any vacancy in the membership thereof.

15.—(1) A Board shall inquire into the matters referred to it and report thereon, as soon as may be, to the Minister.

Reports of
Boards.

(2) A Board may, if it thinks fit, make interim reports.

(3) Subject to the provisions of section 19 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 a Board as a result of the inquiry.

PART V. General provisions in respect of the Tribunal and Boards of Inquiry

16.—(1) Any party to an industrial dispute referred to the Tribunal for settlement, or in respect of which a Board has been appointed, may either appear in person before the Tribunal or Board, as the case may be, or be represented—

Appearance
before the
Tribunal
and Boards.

- (a) by an attorney-at-law; or
- (b) by an officer of the trade union concerned or of the organization representing employers concerned; or
- (c) if the party is a corporation, by an officer of the corporation; or
- (d) with the permission of the Tribunal, by any other person whom he wishes to represent him.

(2) The Attorney-General or his representative shall be entitled to appear before the Tribunal or a Board whenever he considers it expedient in the public interest so to do.

16A. The Tribunal shall have power to hear an industrial dispute referred to it for settlement, on the Tribunal being satisfied that due notice of the hearing was served on a party to the dispute notwithstanding that that party fails to appear before the Tribunal.

Power of
Tribunal to
hear
industrial
disputes.
7/1986
S. 5.

Power to
summon
witnesses and
administer
oaths.

17.—(1) The Tribunal and a Board shall have power to summon any person to attend before the Tribunal or the Board, as the case may be, and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

Third
Schedule.

(2) A summons under this section shall be in the form prescribed in the Third Schedule.

(3) A summons under this section may be served either personally or by registered post.

(4) The Tribunal and a Board shall have power to administer oaths to or take the affirmation of any witness appearing before them.

Duty and
privileges of
witnesses.

18.—(1) Any person summoned to attend and give evidence or to produce any paper, book, record or document before the Tribunal or a Board—

- (a) shall be bound to obey the summons served upon him;
- (b) shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same right or privilege as he would have before a court;
- (c) shall be entitled to be paid, from public funds, his expenses, including travelling expenses, at the rates prescribed by the Witnesses Expenses Act for witnesses who are entitled to have their expenses paid from public funds:

Provided that the Tribunal or a Board may disallow the whole or any part of such expenses in any case, if it thinks fit.

(2) Any person who—

- (a) without sufficient cause, fails or refuses to attend before the Tribunal or a Board in obedience to a summons under this Act, or fails or refuses to produce any paper, book, record or document which he was required by such summons to produce; or

- (b) being a witness, leaves the Tribunal or the Board, as the case may be, without the permission of the Tribunal or the Board; or
- (c) being a witness, refuses, without sufficient cause, to answer any question put to him by or with the permission of the Tribunal or the Board; or
- (d) wilfully obstructs or interrupts the proceedings of the Tribunal or the Board,

shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars.

13 2002
S. 12.

19.—(1) The Tribunal or a Board may sit in private for the purpose of hearing evidence if, in the opinion of the Tribunal or of the Board, as the case may be, the interests of the parties or of the public so require.

The Tribunal and Boards may sit in private.

(2) No evidence given before the Tribunal or a Board, at a hearing held in private in accordance with the provisions of subsection (1), shall be disclosed to any person except with the consent of the Tribunal or of the Board, as the case may be.

(3) Any person who discloses any evidence in contravention of subsection (2) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars.

13 2002
S. 13.

20. Subject to the provisions of this Act the Tribunal and a Board may regulate their procedure and proceedings as they think fit.

The Tribunal and Boards may regulate their procedure and proceedings.

21.—(1) There shall be paid to the members of the Tribunal and of Boards and to any assessors assisting the Tribunal such remuneration, whether by way of honorarium, salary or fees, and such allowances, as the Minister may determine.

Remuneration and protection of members of Tribunal and of Boards.

(2) No action, suit or other proceedings shall be brought or instituted personally against any member of the Tribunal or of a Board in respect of any act done *bona fide* in the course of the operations of the Tribunal or the Board, as the case may be.

PART VI. *Miscellaneous*

Change of ownership of undertaking during an industrial dispute.

22. Where a change occurs (whether by virtue of a sale or other disposition or by operation of law) in the ownership of an undertaking while an industrial dispute exists in that undertaking, the dispute shall not be taken to be terminated by reason only of such change, and references in this Act to an employer shall, in relation to such dispute, apply to the person who is the owner of the undertaking immediately after the change occurs as they apply (or would, but for such change, have applied) to the person who is the owner immediately before the change occurs.

Expenses incurred for purposes of this Act.

23. Any expenses incurred by the Minister in giving effect to the provisions of this Act, including the payment of remuneration and allowances, shall be paid out of the Consolidated Fund.

Special provisions as to fines and attachment.

24.—(1) Any fine imposed by a Resident Magistrate on the conviction of any person prosecuted for an offence under this Act (other than any offence under subsection (9) of section 12, or subsection (2) of section 18 or subsection (3) of section 19), or under regulations made under this Act, shall be deemed to be a sum for the payment of which judgment has been given by a Resident Magistrate in the exercise of the civil jurisdiction assigned to him, and the provisions of the Judicature (Resident Magistrates) Act in relation to—

(a) judgments given in a court in an action at common law for the payment of any sum; and

(b) the payment of interest on such judgments; and

(c) the procedure for satisfaction of such judgments, shall apply to such fine as they apply to sums for the payment of which judgment has been given as aforesaid without limit of amount; and as respects such fine the Crown shall be deemed to be the judgment creditor and the person on whom the fine is imposed shall be deemed to be the party against whom judgment has been obtained.

(2) Without prejudice to any other method of enforcing payment of any fine imposed by a Resident Magistrate on the conviction of any person prosecuted for an offence under subsection (9) of section 12, or subsection (2) of section 18 or subsection (3) of section 19, payment may be enforced in the manner provided in subsection (1) of section 195 of the Judicature (Resident Magistrates) Act in respect of fines for which no express provision is made as to the mode of enforcement.

(3) On the conviction of any person prosecuted for an offence under subsection (9) of section 12 or subsection (2) of section 18 a Resident Magistrate may, on an application made to him for either a writ of attachment or an order on that person to show cause why he should not be attached for disobeying the Tribunal or for doing any act referred to in subsection (2) of section 18, direct that a writ of attachment in the form set out in the Fourth Schedule issue against him.

Fourth
Schedule.

(4) Subject to the provisions of subsection (3) the provisions of section 651 of the Judicature (Civil Procedure Code) Law shall apply, with such modifications as may be necessary, in relation to an application under subsection (3) as they apply in relation to an application under the said section 651.

Cap. 177
(1953 Edn.
omitted).

(5) It shall not be necessary for a Resident Magistrate, where he is dealing with an application under subsection (3), to have regard to the fact that he has, or has not, imposed a fine on the person in respect of whom the

application is made for the offence in respect of which the application is made.

Application to
Government
and its
employees.

25.—(1) Subject to the provisions of subsections (2) and (3), this Act applies in relation to employment in the service of the Government and to workers employed by the Government as it applies in relation to other employment and to other workers.

14/1983
S. 6.

(2) This Act does not apply to employment in the Jamaica Defence Force or in the Jamaica Constabulary Force, the Island Special Constabulary Force or the Rural Police, or to persons employed in those Forces.

13/2002
S. 14.

(3) Sections 5 and 5A do not apply to the Government or to workers employed by the Government, and subsections (5) and (9) of section 12, section 13 and subsection (3) of section 30 do not apply to the Government.

7/1986
S. 6.

13/2002
S. 14.

(4) Sections 5 and 5A do not apply to the Kingston and St. Andrew Corporation or any Parish Council or to workers employed by the Kingston and St. Andrew Corporation or any Parish Council.

Service of
documents.

26. Any award or other document which may be, or is required by or under this Act to be, served on or given to any person or trade union shall be deemed to be served or given if it is delivered to that person or is sent to him by registered post at his last known place of business or abode or, in the case of a trade union or any other body or association of persons, if it is delivered or sent by registered post to the secretary or clerk of that trade union or other body or association at its registered or principal office.

Regulations.

27.—(1) The Minister may make regulations for the better carrying out of the provisions of this Act and in particular but without prejudice to the generality of the foregoing, may make regulations—

- (a) as to the formation and composition of bargaining units;
- (b) as to the furnishing of information to the Minister in relation to collective agreements;

- (c) prescribing any matter or anything which may be, or is required by this Act to be, prescribed.

(2) Notwithstanding anything contained in the Interpretation Act, regulations made under this section may provide in respect of a breach of any of the provisions of such regulations that the offender shall be liable on summary conviction thereof before a Resident Magistrate to such fine not exceeding five hundred thousand dollars as may be prescribed therein.

13 2002
S. 15.

28.—(1) The Minister may from time to time by order amend the First and Fifth Schedules.

Power to
amend First
and Fifth
Schedule.

(2) Every order made under this section shall be subject to affirmative resolution.

13 2002
S. 16.

29.—(1) Where any industrial dispute which is referred for settlement to any person other than the Tribunal involves questions as to wages, or as to hours of work, or as to any other terms and conditions of employment, that person—

Special
provisions
in respect of
certain
awards,
settlements
and
agreements.
13 1978
S. 4.

- (a) shall not, if those wages, or hours of work, or conditions of employment are regulated or controlled by or under any enactment, make any award which is inconsistent with that enactment;

- (b) shall not make any award which is inconsistent with the national interest.

(2) Where—

- (a) any award or settlement in respect of an industrial dispute is made by, or through the intervention of, any person other than the Tribunal; or

(b) any collective agreement is made after that date, the employer to whom that award, settlement or collective agreement relates shall supply a copy thereof to the Minister within the relevant period.

(3) In subsection (2) “the relevant period” means, in relation to any award, settlement or collective agreement, a period of fourteen days after the date on which the award, settlement or collective agreement is made.

13/2002
S. 17.

(4) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars.

Employer in
essential
services to
keep register
of workers.
7/1986
S. 7.

30.—(1) It shall be the duty of every employer of an undertaking which provides an essential service to compile and keep up-to-date an accurate register of the names and proper addresses of its workers and such register shall be kept so as to be able to determine readily the department in which a worker is employed and, where applicable, the bargaining unit to which he belongs.

(2) Where industrial action is threatened or taken in an undertaking which provides an essential service, the Minister or the Tribunal, where a dispute has been referred to it, as the case may be, may by notice in writing request the employer to provide a list of the names and addresses of the workers or any one of them in that undertaking according to department or bargaining unit or department and bargaining unit, as the case may be, and such list shall be provided within twenty-four hours of service of the notice.

13/2002
S. 18.

(3) Any employer who fails to comply with a request made pursuant to subsection (2) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars.

Prohibition of
industrial
action while
appeals from
the Tribunal
are pending in
Court.
7/1986
S. 7.

31.—(1) No party to an industrial dispute shall continue or take industrial action while proceedings, whether by way of appeal or otherwise, relating to any award, order, requirement or decision of the Tribunal are pending before any Court in the exercise of its civil jurisdiction.

(2) A person who contravenes this section is guilty of contempt of court.

32.—(1) Where it appears to the Minister—

- (a) that any industrial action is threatened or taken (whether in conformity with the Act or otherwise); and
- (b) that such industrial action is, or (as the case may be) is likely to be—
 - (i) gravely injurious to the national economy, to imperil national security or to create a serious risk of public disorder; or
 - (ii) to endanger the lives of a substantial number of persons or expose a substantial number of persons to serious risk of disease or personal injury.

Prohibition
of industrial
action pre-
judicial to
the national
interest.
7 1986
S. 7.

the Minister may apply to the Supreme Court *ex parte* for an order restraining the parties from commencing or from continuing the industrial action; and the Court may make such order thereon as it considers fit having regard to the national interest .

(2) Where the Supreme Court makes an order under subsection (1) then the parties specified in the order shall be bound thereby and shall thereupon refrain from or discontinue the industrial action.

(3) An order made under subsection (1) may be published in the prescribed manner and the publication shall, without prejudice to any other form of service, be deemed to be service of notice thereof on all parties specified in the order and all persons threatening or engaged in the industrial action.

(4) For the purposes of this section, subsections (5B) and (5C) of section 12 shall apply, *mutatis mutandis*, in like manner as they apply in relation to the provisions of section 12.

FIRST SCHEDULE

(Sections 2 and 28)

Water services
 Electricity services
 Health services
 Hospital services
 Sanitary services
 Fire fighting services
 Connectional services
 Overseas telecommunication services

7 1986
 S. 8 (a).
 7 1986
 S. 8 (b).

Services connected with the loading and unloading of ships and with the storage and delivery of goods at, or from, docks, wharves and warehouses operated in connection with docks or wharves.

Services connected with oil refining and with the loading, distribution, transportation or retailing of petroleum fuel for engines or motor vehicles or aircraft.

Civil Aviation services.

SECOND SCHEDULE

(Section 7)

Constitution
 of the
 Tribunal.

1. (1) The Tribunal shall consist of—

13 2002
 S. 20.

- (a) a chairman and two deputy chairmen, all of whom shall be appointed by the Minister, after consultation with organizations representing employers and organizations representing workers, and shall be persons appearing to the Minister to have sufficient knowledge of, or experience in relation to, labour relations; and
- (b) not less than two members appointed by the Minister from a panel supplied to him by organizations representing employers and an equal number of members appointed by him from a panel supplied to him by organizations representing workers; and
- (c) such special members as may for the time being be appointed under section 10 of the Act for the purposes of any industrial dispute referred to the Tribunal under that section.

(2) If no panel for the purposes of subparagraph (1) (b) is supplied to the Minister in response to an invitation to organizations representing employers or to organizations representing workers so to do, the Minister may, in lieu of the panel which should have been supplied to him for those purposes, constitute a panel in such manner and consisting of such persons as he thinks fit.

(3) Whenever the Minister thinks it necessary to increase the number of members of the Tribunal temporarily by reason of the fact that the number of industrial disputes which have been referred to the Tribunal is, for the time being, too large for the existing members to settle expeditiously, he may appoint such number of additional members, for such period, as he thinks necessary for the purpose of dealing with the temporary increase in the work of the Tribunal.

(4) The members of the Tribunal shall be appointed by the Minister by instrument in writing.

(5) Subject to the provisions of this Schedule the members of the Tribunal referred to in sub-paragraph (1) (a) and (b) shall hold office for such period, not exceeding five years, as the Minister may determine, and such members shall be eligible for reappointment, and the additional members referred to in sub-paragraph (3) shall hold office until the Minister revokes their appointments.

2. (1) If the chairman of the Tribunal is absent or unable to act, one of the deputy chairmen thereunto authorized by the Minister shall exercise the functions of the chairman. Acting appointments.

(2) If a deputy chairman of the Tribunal is absent or unable to act, or is performing the functions of the chairman under sub-paragraph (1), the Minister may appoint a person to act temporarily in the place of that deputy chairman.

(3) If any other member of the Tribunal is absent or unable to act, the Minister may appoint a person to act temporarily in the place of that member.

(4) The Minister shall, in appointing any person to act pursuant to sub-paragraph (2) or sub-paragraph (3), select that person from the category of persons from which the deputy chairman or other member in whose place he is to act was appointed.

3. (1) Any member of the Tribunal, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Tribunal. Resignations.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt by the Minister of such instrument.

4. The Minister may at any time revoke the appointment of any member of the Tribunal. Revocation of appointments.

Filling of
vacancies.

5. If any vacancy occurs in the membership of the Tribunal such vacancy shall be filled by the appointment of another member in the manner in which, and from the category of persons from which, the previous member was appointed, and the member so appointed shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed.

Gazetting of
appointments.

6. The names of all members of the Tribunal as first constituted, and every change in the membership thereof, including the appointment of special members, shall be published in the *Gazette*.

Officers and
servants.

7. The Minister shall make such arrangements in relation to the provision and remuneration of officers and servants of the Tribunal as may from time to time be necessary.

THIRD SCHEDULE *Summons to witness*

(Section 17)

To: (name of person summoned and his calling and address, if known)
You are hereby summoned to appear before the Industrial Disputes Tribunal (or, as the case may be, a Board of Inquiry) at (place)
upon the day of , 19 , at o'clock
and give evidence respecting (state the matter
which has been referred to the Tribunal or the Board, as the case may be).
(If the person summoned is to produce any documents, add):
And you are required to bring with you (specify the papers, books, records
and documents required).

Therefore fail not at your peril.

Given under the hand of chairman or deputy
chairman of the Tribunal (or the Board, as the case may be) this
day of , 19 .

(Section 24)

Signature of Resident Magistrate.

13 2002
S. 21.

Tourism services.