

INDUSTRIAL DISPUTES (HEARING AND DETERMINATION OF PROCEEDINGS)
(SPECIAL PROVISIONS) ACT.

Act
No. 13 of 2003.

**INDUSTRIAL DISPUTES (HEARING AND DETERMINATION OF PROCEEDINGS)
(SPECIAL PROVISIONS)**

AN ACT TO PROVIDE FOR THE EXPEDITIOUS HEARING AND DETERMINATION OF APPLICATIONS AND REFERENCES MADE UNDER THE INDUSTRIAL DISPUTES ACT AND THE TERMINATION OF EMPLOYMENT OF WORKMEN (SPECIAL PROVISIONS) ACT; TO AMEND THE INDUSTRIAL DISPUTES ACT AND THE TERMINATION OF EMPLOYMENT OF WORKMEN (SPECIAL PROVISIONS) ACT; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Preamble.

WHEREAS it has become necessary to ensure an expeditious disposal of applications and references made under the Industrial Disputes Act and the Termination of Employment of Workmen (Special Provisions) Act, in order that parties to such applications and references may be able to obtain decisions in respect of the same within a short period of time :

AND WHEREAS to facilitate such expeditious disposal it is considered desirable to stipulate time frames in respect of the procedure adopted in the determination of applications made to labour tribunals and the Commissioner and references made to an arbitrator, and in respect of the hearing and deciding of appeals lodged against orders made on such applications :

BE it therefore enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

Short title and
date of
operation.

1. This Act may be cited as the Industrial Disputes (Hearing and Determination of Proceedings) (Special Provisions) Act, No. 13 of 2003, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

DETERMINATION OF PROCEEDINGS BEFORE LABOUR TRIBUNALS

Assistant Secretary
to forward copy of
application to the
employer & c.

2. (1) Upon receipt by a labour tribunal of an application under section 31B of the Industrial Disputes Act, it shall be the duty of the Assistant Secretary of such labour tribunal, if such application is in due form, to forthwith and in any event within three working days of the date of receipt of such application, to forward a copy thereof to the employer in respect of whom such application is made, and shall by written notice require him to transmit within a period of twenty one days of receipt of such notice, a statement in duplicate, setting out his answer to the matter to which the application relates. It shall be the duty of the employer to transmit the statement required in duplicate to the Assistant Secretary within the stipulated period.

(2) Within three working days of the date of receipt of the statement referred to in subsection (1), it shall be the duty of the Assistant Secretary to forward a copy of the statement to the applicant and shall by written notice require the applicant to transmit to him within a period of twenty one days of receipt of such notice, a statement in duplicate setting out the applicant's reply thereto. It shall be the duty of the applicant to transmit the statement required in duplicate to the Assistant Secretary within the stipulated period.

(3) It shall be the duty of a labour tribunal not to permit any extension of the periods referred to in subsection (1) and (2), except for exceptional reasons to be recorded by the tribunal.

(4) On receipt of the statement transmitted by the applicant under subsection (2), it shall be the duty of the labour tribunal to forthwith and in any event not later than three working days after such date of receipt, to fix the application for hearing and by a notice, inform all parties to the application of such date.

(5) Where the employer or the applicant as the case may be, fails to transmit the statement required under subsection (1) or (2), it shall be, the duty of the labour tribunal to forthwith and in any event not later than three working days after the date of such default, to fix the application for hearing and inform by notice all parties to the application of such date.

Tribunal to proceed in the absence of any party.

3. Where without sufficient cause being shown, a party to an application before a labour tribunal fails to attend or is not represented at any hearing of such tribunal, the tribunal may proceed with the hearing and determination of the matter, notwithstanding the absence of such party or any representative of such party.

Postponement of hearing not permitted.

4. Notwithstanding anything in any written law to the contrary, where an application made to a labour tribunal is fixed for hearing and notice has been given to the parties to such application, the labour tribunal shall proceed to hear such application from day to day until its conclusion, and shall not, except for exceptional reasons to be recorded by such tribunal, permit any postponement of such hearing.

Powers and duties of labour tribunals in regard to applications.

5. (1) It shall be the duty of a labour tribunal to whom an application is made, to make all such inquiries into that application and hear all such evidence as the tribunal may consider necessary, and thereafter make such order as may appear to the tribunal to be just and equitable, and such order shall be made not later than four months from the date of the making of such application.

(2) The order made under subsection (1) shall be delivered openly in the tribunal.

(3) Notice of the date on which an order under subsection (1) is to be made shall be given by the Assistant Secretary of the tribunal to all the parties to the application.

(4) Save as provided for in section 31D of the Industrial Disputes Act, an order made by a labour tribunal shall not be called in question in any court.

Filing, hearing and decision on appeals or application in revision made under section 31D of the Industrial Disputes Act.

6. (1) A petition of appeal made under section 31D of the Industrial Disputes Act against an order made by a labour tribunal shall be filed within a period of thirty days (including the day on which the order appealed from was made, but excluding Sundays and Public Holidays) of the date of the making of the order from which the appeal is preferred.

(2) An appeal preferred or an application in revision made under section 31D of the Industrial Disputes Act against any order of a labour tribunal, shall be heard and decided within four months of the date on which such appeal or application was filed.

Application for writ made under section 31D and appeal from any order made on such application to the Supreme Court to be heard and decided within four months.

7. (1) Where an application is made to the Court of Appeal under subsection (4) of section 31D of the Industrial Disputes Act, for the issue of an order in the nature of a writ of *certiorari*, prohibition, *procedendo* or *mandamus*, against the President of a labour tribunal in respect of an order made by such President, the Court of Appeal shall hear and decide such application within four months of the date on which such application is made to the Court of Appeal.

(2) An appeal preferred to the Supreme Court against an order made by the Court of Appeal on any application referred to in subsection (1), shall be made within one month of the date on which such order is made and the Supreme Court shall hear and determine such appeal within four months of the date on which such appeal is filed in the Supreme Court.

Decision on appeals made to the Supreme Court under section 31DD. 8. An appeal made to the Supreme Court under section 31DD of the Industrial Disputes Act from an order of a High Court established under Article 154P of the Constitution, shall be heard and decided within four months of the date on which such appeal is filed in the Supreme Court.

Evidence Ordinance not to apply. 9. The provisions of the Evidence Ordinance shall not apply to the conduct of proceedings before a labour tribunal under this Act.

Serving of notice, application & C., under this Act. 10. The service on any person of a notice, application or other document issued under this Act, shall be effected by hand or by registered post or by affixing such notice, application or other document at the entrance of the last known place of residence of such person.

Order under section 2 of the Termination of Employment of workmen (Special Provisions) Act, to be made within two months of applicaion. 11. In the exercise of his powers under section 2 of the Termination of Employment of Workmen (Special Provisions) Act, to grant or refuse approval to an employer to terminate the scheduled employment of any workman, it shall be the duty of the Commissioner to make his order within two months of the date of receipt of the application from the employer.

Order under section 6 of the Termination of Employment of Workmen (Special Provisions) Act, to be made within two months of application. 12. Where an application is made to the Commissioner by a workman for an order under section 6 of the Termination of Employment of Workmen (Special Provisions) Act, it shall be the duty of the Commissioner to make such order within two months of the date of receipt of the application from the workman.

Order unde section 6A of the Termination of Employment of Workmen (Special Provisions) Act, to be made within two monts of application. 13. It shall be the duty of the Commissioner to make his order under section 6A of the Termination of Employment of Workman (Special Provisions) Act, relating to the payment of compensation to a workman, within two months of the date of receipt of the application from the workman.

DETERMINATION OF REFERENCES MADE TO AN ARBITRATOR

An arbitrator to make an award in respect of a reference under the Industrial Disputes Act, within three months of reference. 14. Where an industrial dispute has been referred under paragraph (d) of subsection (1) of section 3 or subsection (1) of section 4 of the Industrial Disputes Act to an arbitrator for settlement, it shall be the duty of such arbitrator to make his award under section 17 of that Act, within three months of the date of the making of such reference :
Provided however that it shall be lawful for the arbitrator to make his award at any time within a further period of two months, if he is of the opinion that in the interests of an effective settlement of the dispute such further period is required in which event he shall record the reasons therefor.

APPLICATIONS MADE TO INTERPRET AWARDS OR ORDERS UNDER INDUSTRIAL DISPUTES ACT.

Reference under section 34 of the Industrial Disputes Act to be made within one months of the order or award. 15. A reference under section 34 of the Industrial Disputes Act relating to the interpretation of any award or order made by an arbitrator, labour tribunal or an Industrial Court as the case may be, may be made within one month of the date of the making of such award or order, and it shall be the duty of the arbitrator, labour tribunal or the Industrial Court as the case may be, to which such reference is being made, to hear and determine such reference within one month of the date of receipt of such reference.

DETERMINATION OF PENDING ACTION

Pending proceedings.

16. (1) Where on the date of the coming into operation of this Act, any application made to a labour tribunal under section 31B of the Industrial Disputes Act, is pending before such tribunal, it shall be the duty of the tribunal to make all such inquiries into such application and hear all such evidence as it may consider necessary, and make, not later than four months from the date of the coming into operation of this Act, such order as may appear to the tribunal to be just and equitable.

(2) Where on the date of the coming into operation of this Act, any proceeding under sections 2, 6 or 6A of the Termination of Employment of Workmen (Special Provisions) Act, is pending before the Commissioner, it shall be the duty of the Commissioner to make his order under those sections as relates to such proceedings, not later than one month from the date of the coming into operation of this Act.

(3) Where on the date of coming into operation of this Act, any inquiry is pending before an arbitrator on a reference made under paragraph (d) of subsection (1) of section 3 or subsection (1) of section 4 of the Industrial Disputes Act, it shall be the duty of such arbitrator to make his award on such reference not later than two months from the date of coming into operation of this Act.

Interpretation.

17. In this Act unless the context otherwise requires—

“Commissioner” shall have the same meaning as in the Industrial Disputes Act;

“Industrial Disputes Act” means the Industrial Disputes Act.

“industrial dispute” shall have the same meaning as in the Industrial Disputes Act ;

“labour tribunal” means a labour tribunal established under section 31A of the Industrial Disputes Act ;

“scheduled employment” and “workmen” shall have the same meaning as in the Termination of Employment of Workmen (Special Provisions) Act ; and

“Termination of Employment of Workmen (Special Provisions) Act” means the Termination of Employment of Workmen (Special Provisions) Act, No. 45 of 1971.

Sinhala text to prevail in case of inconsistency.

18. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.