

GUYANA
LABOUR ACT

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An ACT to provide for the establishment of a Department of Labour, for the regulation of the relationship between employers and employees and for the settlement of differences between them.

Commencement: 23rd January, 1942

Short title.

1. This Act may be cited as the Labour Act.

Interpretation. [5 of 1974]

2. (1) In this Act-

"contract" or "contract of service" means any agreement, understanding, or arrangement whatever on the subject of wages whether written or oral, whether direct or indirect, to which any employer and any employee are parties, or are assenting, or by which they are mutually bound to each other;

'complaint" means a complaint or information under the Summary Jurisdiction Acts;

"employer" includes attorney, agent, foreman, manager, clerk, and any other person engaged in the hiring, employing or superintending the labour or service of any employee;

"money" means legal tender notes and legal tender coins within the meaning of the Bank of Guyana Act; c.85:02

"occupation" includes agriculture, business, commerce, industry and trade;

"trade dispute" means any dispute between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment, or terms of the employment, or with the conditions of labour, of any person;

"wages" means any money or other thing had or contracted to be paid, delivered, or given as a recompense, reward or remuneration for any work or labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain.

2. (2) Every reference in this Act to a Labour Officer shall include a reference to a person employed as an Agricultural Assessor in the Ministry.

PART I APPOINTMENT OF CHIEF LABOUR OFFICER AND STAFF

Appointment of Chief Labour Officer and other officers and clerks. [12 of 1967]

3. (1) There shall be a Chief Labour Officer, a Deputy Chief Labour Officer, an Assistant Chief Labour Officer, and such number of Senior Labour Officers and Labour Officers as may be necessary.

3. (2) There shall also be such officers and clerks in the Department of the Chief Labour Officer as may be required.

3. (3) The Deputy Chief Labour Officer and the Assistant Chief Labour Officer shall act as assistants generally to the Chief Labour Officer in the performance of his duties.

3. (4) In the absence of the Chief Labour Officer, the Deputy Chief Labour Officer or, in his absence, the Assistant Chief Labour Officer shall have all the powers and may perform all the duties of the Chief Labour Officer.

3. (5) The Senior Labour Officers and Labour Officers and the officers and clerks shall perform such duties as may be assigned to them by the Chief Labour Officer.

PART II CONCILIATION

Powers of Minister in case of trade disputes. [8 of 1975]

4. (1) Where a difference exists or is apprehended between an employer or any class of employers, and employees, or between different classes of employees, the Minister may, if he thinks fit, exercise all or any of the following powers, namely-

- (a) inquire into the causes and circumstances of the difference;
- (b) take such steps as to him may seem expedient for the purpose of promoting a settlement of the difference;
- (c) with the consent of both parties to the difference, or of either of them, or without their consent, refer the matter for settlement to the arbitration of an arbitration tribunal consisting of one or more persons appointed by the Minister except that the Minister shall not refer a difference for settlement to arbitration otherwise than with the consent of both parties to the difference, unless he notifies the parties that he is satisfied that the continuance of the difference is likely to be gravely injurious to the national interest.

4. (2) If a tribunal is so appointed, it shall inquire into the causes and circumstances of the difference by communication with the parties and otherwise shall endeavour to bring about a settlement of the difference, including the making of its award as required by this section, and shall report its proceedings to the Minister.

4. (3) If a settlement of the difference is effected either under subsection (1) (b) or by arbitration upon a reference made with the consent of both parties to the difference, a memorandum of the terms thereof shall be drawn up and signed by the parties or their representatives, and a copy thereof shall be delivered to and kept by the Minister.

4. (4) With respect to any reference to arbitration otherwise than with the consent of both parties to the difference, the following provisions of this subsection shall apply-

- (a) upon the appointment of the tribunal, the Minister shall furnish the tribunal with its terms of reference containing a statement of the causes and circumstances of the difference between the parties into which the tribunal is required to inquire;

(b) the tribunal shall, in respect of any matter referred to it, make its award thereon as soon as practicable and every award so made shall be notified by the tribunal to the Minister and to the parties to the difference except that if the Minister so requests the tribunal shall as soon as conveniently possible make an interim award with respect to any matter referred to it;

(c) the award made by the tribunal shall be binding on the parties to whom it relates and as from the date of such award or as from such other date having retrospective effect as may be specified therein it shall be an implied term of the contract between the employer and employees to whom the award relates that the rate of wages to be paid and the conditions of employment to be observed under the contract shall be in accordance with such award until varied by a subsequent agreement or award.

4. (5) Any employer who fails to comply with an award made by a tribunal in pursuance of a reference made to it otherwise than with the consent of both parties to the difference, is liable on summary conviction to a fine of one thousand dollars, and in the case of a continuing offence to a further fine of one hundred dollars for each day on which the offence continues.

4. (6) A copy of the award of a tribunal certified by the Permanent Secretary shall be conclusive evidence in all courts of the terms of the award therein contained.

4. (7) In subsection (4) (c) and in subsections (5) and (6) the expression "award" includes an interim award.

Exclusion of c. 7:03.

5. (1) The Arbitration Act shall not apply to the settlement by arbitration of any difference or dispute under section 4 of this Act.

5. (2) The Minister may make regulations for the conduct of arbitration proceedings under section 4.

Power of Minister to appoint Advisory Committee in case of existing or apprehended trade dispute.

6. (1) Where any trade dispute exists or is apprehended the Minister may, if he thinks fit, refer any matters appearing to him to be connected with, or relevant to, such dispute or apprehended dispute to an Advisory Committee appointed by him for the purpose of such reference, and the Committee shall inquire into the matters referred to it and shall report thereon and make such recommendations as it may deem expedient to the Minister.

6. (2) An Advisory Committee shall consist of a chairman and such number of members as the Minister may deem expedient.

PART III REGULATION OF WAGES

Regulation of wages.

7. (1) Whenever the Minister deems it expedient that steps should be taken to regulate the wages paid in any occupation in Guyana or any part thereof he may appoint an Advisory Committee to investigate the conditions of employment in such occupation and to make recommendations as to the minimum rates of wages which should be payable.

Constitution.

7. (2) The Advisory Committee shall include representatives of employers and employees and such other members as the Minister may deem fit.

Order prescribing rates payable.

8. (1) On considering the recommendations of the Committee the Minister may, subject to negative resolution of the National Assembly, make an order prescribing the minimum rates of wages payable.

8. (2) The order may prescribe time-rates, piece-rates and overtime rates, or any of them.

8. (3) When a rate of wage is prescribed in respect of a part of Guyana the boundaries thereof shall be set out in the order.

8. (4) Any such rate as aforesaid or the revocation or variation of any such rate shall become effective on the date on which the order is published in the Gazette or on such earlier or later date as is specified in that behalf in the order:

Provided that-

(a) no date earlier than that on which the order is published in the Gazette shall be specified in any order under this subsection unless the Minister is satisfied that the circumstances of the case are such as to justify specially favourable treatment; and

(b) no date shall be so specified which is more than one month anterior to the date on which the order is published in the *Gazette*.

8. (5) The expression "overtime rate" means a rate (whether a time-rate or a piece-rate) to apply, in substitution for the prescribed rate which would

otherwise be applicable, in respect of hours worked by an employee in any week or on any day in excess of the number of hours declared in regulations made by the Minister under this Act to be the normal number of hours per week or for that day in the occupation.

Procedure for making orders under s. 8 (1). Notice of intention.

9. (1) Before the Minister makes an order under section 8(1) or (3), he shall, in such manner as he thinks best adapted for informing persons affected, cause to be published notice of his intention to make the order, of the place where copies of the draft order may be obtained, and of the time, which shall not be less than thirty days, within which any objection made with respect to the draft order must be sent to the Minister.

Objections to draft order.

9. (2) Every objection must be in writing, and must state-

- (a) the specific grounds of objection; and
- (b) the omissions, additions or modifications asked for.

Consideration by Minister.

9. (3) The Minister shall consider any objection which is made by or on behalf of any persons appearing to him to be affected and which is sent to him within the time fixed in that behalf.

Formal and informal inquiries.

9. (4) Before confirming the draft order the Minister-

- (a) may appoint a competent person to hold an inquiry with regard to any draft order and to report to him thereon; or
- (b) may make such other or further inquiries as he deems necessary either through the medium of the Advisory Committee or otherwise.

Amendment of draft order.

9. (5) After considering all the objections made and the report of any inquiry held or made under the foregoing provisions of this section, the Minister may, if he thinks fit, amend the draft order.

Formal inquiry. Appearance of persons affected.

9. (6) On an inquiry held under subsection (4)(a), the Permanent Secretary or any other officer appointed by the Minister in that behalf and any objector or other person who appears to the person holding the inquiry to be affected or the agent of such objector or other person may appear at the inquiry.

Examination of witnesses on oath.

9. (7) The witnesses at such inquiry may, if the person holding it thinks fit, be examined on oath, which oath that person is hereby authorised to administer.

9. (8) Subject as aforesaid, the inquiry and all proceedings preliminary and incidental thereto shall be conducted in accordance with regulations made by the Minister.

Fee to person holding formal inquiry.

9. (9) The fee to be paid to the person holding the inquiry shall be such as the Minister may direct, and shall be deemed to be part of the expenses of the Ministry in the execution of this Part.

Minister to prescribe rates of wages in certain circumstances. [22 of 1978]

10. The Minister, whenever he deems it expedient, having regard to the special circumstances of any particular class of employees in any occupation and to any representations made to him by the employees and their employer that steps should be taken to regulate the wages in any such occupation, may, without appointing an Advisory Committee under section 7, make an Order which shall be subject to negative resolution of the National Assembly prescribing the minimum rates of wages payable and he shall have like powers for the purpose of making an Order under this section as are conferred on him by section 8 (except subsection (1) thereof), and section 9 shall also not apply to an order made by the Minister under this section by virtue of the application of section 8(3).

Record of wages to be kept. [4 of 1972, 20 of 1994]

11. It shall be the duty of every employer in an occupation in respect to which rates of wages have been prescribed to keep such records of wages as are necessary to show that the provisions of this Part are being complied with in respect of persons in his employment, and if he fails to do so he shall be liable on summary conviction in respect of each offence to a fine of fifteen thousand, six hundred and twenty-five dollars, and also to a fine of six hundred and twenty-five dollars for every day during which the default continues after conviction.

Conditions of employment of persons incapable of earning wages at prescribed rates.

12. (1) If, on application in that behalf, the Permanent Secretary is satisfied that any employee employed or desiring to be employed in any occupation on time-work to which a prescribed rate is applicable is affected by any infirmity or physical injury which renders him incapable of earning that prescribed rate, the Permanent Secretary may, if he thinks fit, grant to the employee, subject to such conditions, if any, as he may prescribe, a permit exempting the employment of the employee from the provisions of this Part relating to the payment of wages at

less than the prescribed rate, and while the permit is in force the employer shall not be liable to any penalty for paying wages to the employee at a rate less than the prescribed rate so long as the conditions prescribed by the Permanent Secretary on the grant of the permit are complied with.

Employee to inform employer of duration of permit.

12. (2) Where the duration of any permit granted to an employee under subsection (1) is limited the employee shall give written notice to the employer of the date on which the permit is due to expire.

Recovery of sums short paid to persons employed under the proceeding subsection.

12. (3) Where a permit granted in respect of an employee under subsection (1) contains a condition for the payment of wages to the employee at a rate not less than the rate therein specified, the amount of wages that may be recovered from an employer of the employee pursuant to section 12(2) shall as respects any period during which the permit had effect, be calculated on the basis of the rate so specified instead of on the basis of the prescribed rate.

Penalty for not paying wages in accordance with prescribed rates or agreed rates. [20 of 1994]

13. (1) Where in any occupation rates of wages have been prescribed an employer shall in cases to which the prescribed rate is applicable pay wages to the person employed at not less than such rate clear of all deductions save as in this Act prescribed and if he fails to do so he shall be liable on summary conviction to a fine of fifteen thousand, six hundred and twenty-five dollars and on a second or subsequent conviction to a fine of forty-six thousand, eight hundred and seventy-five dollars.

13. (2) Where in any occupation rates of wages have not been prescribed, an employer shall pay wages to the person employed at the rate agreed upon between them, and if the employer fails to do so, he shall be liable on summary conviction to a fine of fifteen thousand, six hundred and twenty-five dollars, and on a second or subsequent conviction to a fine forty-six thousand, eight hundred and seventy- five dollars.

13. (3) Where an employer has been convicted under this section for failing to pay wages at not less than the prescribed or agreed rate to any employee, then, if notice of intention so to do has been served with the summons or warrant, evidence may be given of any failure on the part of the employer to pay wages at not less than the prescribed or agreed rate to that employee at any time during the two years immediately preceding the date on which the information was laid or the complaint made, and on proof of the failure the court shall, by the conviction, order the employer to pay such sum as in the opinion of the court represents the difference between the amount which, having regard to

the provisions of this Part, ought properly to have been paid to the employee by way of wages during the said period and the amount actually so paid: Provided that the power to order the payment of wages under this subsection shall not be in derogation of any right of the person employed to recover wages by any other proceedings.

Offences by agents.

13. (4) Where an offence for which an employer is by virtue of this Part liable to a fine has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer, and either together with or before or after the conviction of the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable.

Saving as to employer when agent convicted.

13. (5) Where an employer who is charged with an offence against this Part proves to the satisfaction of the court that he has used due diligence to enforce the execution of this Part, and that the offence was in fact committed by his agent or some other person without his knowledge, consent or connivance, he shall, in the event of the conviction of that agent or other person for the offence, be exempt from any fine in respect of the offence, without prejudice, however, to the power of the court under subsection (2) to adjudge him to pay any sum which appears to the court to be due to the person employed on account of wages.

Prevention of evasion.

13. (6) Any shopkeeper, dealer, or trader, who by way of trade makes any arrangement, express or implied, with any employee in pursuance of which the employee performs any work for which a prescribed rate of wages has been fixed, shall be deemed for the purposes of this Part to be the employer of the employee, and the net remuneration obtainable by the employee in respect of the work after allowing for his necessary expenditure in connection with the work shall be deemed to be wages.

13. (7) Where the immediate employer of any employee to whom a prescribed rate of wages applies is himself in the employment of some other person, and that employee is employed on the premises of that other person, that other person shall for the purposes of this section be deemed to be the employer of the employee jointly with the immediate employer.

13. (8) On any prosecution of a person for failing to pay wages at not less than the prescribed or agreed rate, it shall lie on that person to prove by the production of the proper wages sheets or other records of wages or otherwise that he has not paid wages at less than the prescribed or agreed rate.

Civil proceeding by Permanent Secretary for payment of wages at prescribed rate. [12 of 1967]

14. Where it appears to the Permanent Secretary, or to any officer appointed under this Part or to any officer of any Government Department for the time being assisting in carrying this Part into effect, that any sum is due by an employer to an employee by reason of the fact that wages have been paid to that employee at less than the prescribed rate applicable, and that it is not possible to recover the sum so appearing to be due, or some part of that sum, by means of proceedings under section 12, the Permanent Secretary, or that officer, if he is authorised in that behalf by special or general directions of the Permanent Secretary, may, if it appears expedient so to do by reason of the refusal or neglect of the employee to take the necessary proceedings, on behalf of and in the name of the employee, institute civil proceedings before any court of competent jurisdiction for the recovery of the said sum:

Provided always that the court before which any such civil proceedings are instituted by the Permanent Secretary or by any such officer as aforesaid shall have the same power to make an order for the payment of costs by the Permanent Secretary or officer as if the Permanent Secretary or officer were a party to the proceedings.

Appointment of officers and power of entry and inspection. [12 of 1967, 19 of 1977]

15. (1) The Minister may appoint such officers as he may think necessary for the purpose of investigating any complaints and otherwise securing the proper observance of the provisions of this Part.

15. (2) Any such officer shall have power to enter at any hour of the day or night upon the premises of any employer in an occupation to which a prescribed rate is applicable and to require the production of wages sheets or other record of wages by any such employer and to inspect and examine the same and copy any material part thereof.

15. (3) If any person on being required to do so by any such officer fails or refuses to produce any wages sheet or other record of wages, that person shall be liable on summary conviction in respect of each offence to a fine of one hundred dollars; and if any person makes or causes to be made or knowingly allows to be made any wages sheet or record of wages or record of payments which is false in any material particular or produces or causes to be produced or knowingly allows to be produced any such sheet or record to any officer acting in exercise of the powers given by this section knowing the same to be false, he shall be liable on summary conviction to a fine of two hundred dollars or to imprisonment for three months.

15. (4) The Chief Labour Officer, the Deputy Chief Labour Officer and the Assistant Chief Labour Officer shall, without further appointment, be officers for the purposes of subsection (1).

Agreement in contravention of this Part void.

16. Any agreement for payment of wages in contravention of this Part shall be void.

PART IV RIGHTS OF EMPLOYEES AND DUTIES AND OBLIGATIONS OF EMPLOYERS

Duration and mode of determination of contract. [20 of 1994, 9 of 1997]

17. Every contract shall be terminated by the death of the employee:

Provided that such termination shall be without prejudice to the legal claims of his heirs, dependants or personal representatives.

Rates and particulars of wages to be notified by employer to employee.

18. (1) Where an employer offers any work to an employee, he shall inform him, either at the time of the offer or as soon thereafter on the same day as may be practicable, whether he is to be paid for his services by the task or by the day, and at what rate for the task or day, as the case may be.

18. (2) Upon the payment to an employee of his wages, an employer shall inform the employee of the particulars of such wages in so far as such particulars may be subject to any change.

PART V PAYMENT OF WAGES AND DEDUCTIONS THEREFROM

Contracts to pay wages otherwise than in money illegal. [8 of 1960]

19. (1) Except where otherwise permitted by this Part, in every contract for the hiring of any employee or for the performance by any employee of any labour, the wages of such employee shall be payable in money only, and not otherwise, and if in any such contract the whole or any part of such wages is payable in any manner other than in money, such contract shall be and is hereby declared illegal, null and void.

Wages to be paid entirely in money.

19. (2) Except where otherwise permitted by this Part, the entire amount of the wages earned by or payable to any employee in respect of any work done by him shall be actually paid to him in money and not otherwise.

19. (3) Except where there is an agreement to the contrary, wages shall be paid at weekly, fortnightly or monthly intervals as the case may be.

19. (4) Where the payment of wages is made in money such payment shall be made on working days only, and at or near the work place except where there exist more appropriate arrangements.

Employee's right to recover entire amount of his wages.

20. Every employee shall be entitled to recover from his employer the whole or so much of the wages earned by such employee, exclusive of sums lawfully deducted in accordance with this Part, as shall not have been actually paid to him by his employer in money.

No contract to be made with employee as to spending wages at any particular shop, etc.

21. No employer shall, directly or indirectly, by himself or his agent, impose as a condition, express or implied, in or for the employment of any employee, any terms as to the place at which, or the manner in which, or the person with whom, any wages or portion of wages paid or payable to the employee are or is to be expended, and no employer shall by himself or his agent dismiss any employee from his employment for or on account of the place at which, or the manner in which, or the person with whom, any wages or portion of wages paid or payable by the employer to such employee are or is to be expended or fail or fails to be expended.

Advances of money in anticipation of wages.

22. (1) Subject to this Part, an employer may make advances of money to his employee in anticipation of the regular period of payment of his wages.

Interest, discount, etc., on advances forbidden.

22. (2) Whenever any advance of money is made by an employer to an employee, it shall not be lawful for the employer to make any deduction in respect of such advance on account of poundage, discount, interest, commission, or any similar charge.

Wages in kind [20 of 1994]

23. (1) Subject to subsection (2), in any occupation in which the partial payment of wages in the form of allowances in kind is customary or desirable because of the nature of such occupation, nothing contained in this Part shall render illegal a contract with an employee for giving to him food, drink, a house, cottage, tenement or room, or other allowances or privileges in addition to money wages as a remuneration for his services, the payment of wages in the form of liquor of high alcoholic content or of noxious drugs not being permitted in any circumstances.

23. (2) No employer shall give to an employee any allowance in kind unless-

- (a) the employee requests such allowance on the basis that it is appropriate for his personal use and benefit or that of his family; and
- (b) the value attributed to such allowance is fair and reasonable and has been agreed upon by the employer and employee.

Deduction from wages which are permitted.

24. Nothing contained in this Part shall extend, or be construed to extend, to prevent any employer or agent of such employer, from making, or contracting to make, any stoppage or deduction from the wages of any employee for or in respect of-

- (a) any unpaid rent of any land, house, cottage, tenement or room demised or let by the employer to the employee; or
- (b) any grazing fee due by the employee to the employer; or
- (c) any medicine or medical attendance supplied by the employer to the employee at the latter's request; or
- (d) the actual or estimated cost to the employer of any materials, tools and implements supplied by the employer to the employee at the latter's request to be employed by him in his occupation; or
- (e) any victuals supplied by the employer to the employee at the latter's request; or
- (f) the actual or estimated cost to the employer of any goods supplied by the employer to the employee for the personal use of the employee; or
- (g) any money advanced by the employer to the employee (whether paid to the employee himself or to some other person at his request), in anticipation of the regular period of payment of his wages:

Provided that the total amount which may be stopped or deducted from the wages of an employee in anyone month under this paragraph shall not exceed one-third of the wages of the employee in that month.

Penalties. [4 of 1972, 20 of 1994]

25. If any employer or his agent contravenes or fails to comply with any of the provisions of this Part, such employer or agent, as the case may be, shall be liable on summary conviction to a fine of six thousand, two hundred and fifty dollars for the first offence, to a fine of fifteen thousand, six hundred and twenty-five dollars for the second offence, and in case of a third or subsequent offence, to a fine of forty-six thousand, eight hundred and seventy-five dollars.

Procedure for bringing actual offender before court when employer charged.

26. (1) Where an employer is charged with an offence against this Part, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he had used due diligence to enforce the execution of this Part, and that the said other person had committed the offence in question without his knowledge, consent or connivance, the said other person shall be summarily convicted of such offence, and shall be liable to the same penalty as that to which the employer, if convicted, would have been liable and the employer shall be exempt from any penalty.

26. (2) When it is made to appear to the satisfaction of the Permanent Secretary, at the time of discovering the offence, that the employer had used due diligence to enforce the execution of this Part, and also by what person such offence had been committed, and also that it had been committed without the knowledge, consent, or connivance of the employer, then the Permanent Secretary shall proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

PART VI PROHIBITION OF PAYMENT OF WAGES IN RETAIL SPIRIT SHOPS

Wages not to be paid within retail spirit shop.

27. No wages shall be paid to any employee at or within any retail spirit shop, tavern or place for the sale of any spirits, rum, wine, beer or other spirituous or fermented liquor, or any office, or place belonging thereto or occupied therewith, save and except such wages as are paid by the resident owner or occupier of such retail spirit shop, tavern or place to any employee bona fide employed by him.

Offence. [20 of 1994]

28. Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with any of the provisions of the preceding section shall be liable on summary conviction to a fine of six thousand, two hundred and fifty dollars for each offence.

PART VII HOURS OF WORK OF EMPLOYEES

Power to make regulations as to hours of work in any occupation. [19 of 1990]

29. (1) The Minister may make regulations prescribing the number of hours which may normally be worked by an employee in any week or on any day in any

occupation, and the time to be allowed by an employer to his employee for his meals.

29. (2) In any such regulations the prescribed number of hours may vary-

- (a) in respect of different periods of the year;
- (b) according to the season, where the carrying on of an occupation is influenced by seasons;
- (c) in respect of different branches or processes of an occupation;
- (d) in respect of adults, children of or under the age of fourteen years, and young persons over the age of fourteen years and under the age of sixteen years; and
- (e) in respect of different parts of Guyana.

29. (3) This section shall not apply to a shop assistant as defined in section 2 of the Shops Act. [c. 91:04]

PART VIII COLLECTIVE AGREEMENTS

Collective agreements enforceable.

30. (1) Every collective agreement which-

- (a) is made in writing on or after the date on which this section comes into operation; and
- (b) does not contain a provision which (however expressed) states that the agreement or part of it is intended not to be legally enforceable,

shall be conclusively presumed to be intended by the parties to it to be a legally enforceable contract and with effect from the date specified for that purpose in subsection (3) the collective agreement shall, in so far as its provisions are not inconsistent with the other provisions of this Act or the provisions of any other written law, be binding on, and enforceable by or against, the parties to it and, where any such party is an organisation, all the persons who are members of that organisation on the date on which the collective agreement is made and all those who become members of that organisation after that date.

30. (2) Where a collective agreement referred to in subsection (1)(a) contains a provision which (however expressed) states that a part of the agreement specified in that provision is intended not to be legally enforceable,

the collective agreement with the exception of that part shall be conclusively presumed to have been intended by the parties to it to be a legally enforceable contract and with effect from the date specified for that purpose in subsection (3) the collective agreement, with the exception of that part, in so far as its provisions are not inconsistent with the other provisions of this Act or the provisions of any other written law, be binding on, and enforceable by or against, the parties to it and, where any such party is an organisation, all the persons who are members of that organisation on the date on which the collective agreement is made and all those who become members of that organisation after that date.

30. (3) The date with effect from which a collective agreement referred to in subsection (1)(a) or part of such collective agreement shall be legally enforceable under subsection (1) or subsection (2), as the case may be, shall be the date specified therefor in the collective agreement or, if no such date is specified, the date on which the collective agreement is signed by all the parties thereto or their representatives or, if the collective agreement is signed by the parties thereto or their representatives on different dates the last of the dates on which any of such parties or their representatives signed the collective agreement.

30. (4) A copy of every collective agreement referred to in subsection (1) (a) signed by the parties thereto or their representatives shall be presented to the Chief Labour Officer by all or any of such parties or representatives as soon as may be possible, and in any case not later than three months after it is made and the Chief Labour Officer shall keep it in his office:

Provided that the validity or enforceability of the collective agreement shall not be affected by the non-presentation of the collective agreement to the Chief Labour Officer under this subsection.

30. (5) Where a copy of a collective agreement is presented to the Chief Labour Officer under subsection (4) by only one or some of the parties thereto or their representatives the Chief Labour officer shall issue notice, in the prescribed form, of the presentation of the collective agreement to the parties who, or whose representatives, did not join in presenting the collective agreement to him.

30. (6) Where one of the parties to a collective agreement referred to in subsection (1)(a) is a trade union recognised by any employer, who or any organisation of which he is a member is a party thereto, as sole bargaining agent in respect of all his employees or any class of his employees, the collective agreement shall be binding also on, and enforceable also by or against, every one of his employees, or every one of that class of his employees, as the case may be, who are not members of the trade union, to the same extent to which it would have been binding on, or enforceable by or against, those employees if they were members of the trade union.

30. (7) A member of any organisation which is a party to any collective agreement, a copy of which has been presented to the Chief Labour Officer under subsection (4), shall be entitled to examine it or make extracts from it during the normal working hours of the office of the Chief Labour Officer on any working day and every person on whom the collective agreement is binding shall be entitled to obtain a copy of it in payment of such fees as may be prescribed by the Minister by regulations.

30. (8) In this section reference to member of an organisation includes, in the case of an organisation of which any other organisation is a member, reference to every member of that other organisation.

30. (9) Where a copy of any collective agreement, a copy of which is required by subsection (4) to be presented to the Chief Labour Officer, is not presented to the Chief Labour Officer before the expiry of the period specified therefor by that subsection, each of the persons who signed the collective agreement shall be liable on summary conviction to a fine of five hundred dollars and also to a fine of fifty dollars for every day during which the failure to so present the collective agreement to the chief Labour Officer continues.

Meaning of "collective agreement" [9 of 1984]

31. (1) In this Act "collective agreement" means any agreement or arrangement which for the time being is subsisting and-

(a) is an agreement or arrangement made (in whatever way and in whatever form) by or on behalf of one or more organisations of employees and either one or more employers, one or more organisations of employers, or a combination of one or more employers and one or more organisations of employers; and

(b) is either an agreement or arrangement prescribing (wholly or in part) the terms and conditions of employment of employees of one or more descriptions, or an agreement or arrangement relating to one or more of the procedural matters specified in subsection (2), or both.

31. (2) The procedural matters referred to in subsection (1) (b) are-

(a) machinery for consultation with regard to, or for the settlement by negotiation or arbitration of, terms and conditions of employment;

(b) machinery for consultation with regard to, or for the settlement by negotiation or arbitration of, other questions arising between an employer or group of employers and one or more employees or organisations of employees;

(c) negotiating rights;

- (d) facilities for officials of trade unions or other organisations of employees;
- (e) procedures relating to dismissal;
- (f) procedures relating to matters of discipline other than dismissal;
- (g) procedures relating to grievances of individual employees.

Regulation of terms and conditions of employment of employees in the public sector. [9 of 1984]

32. (1) The Trades Union Congress and the Government may, in relation to employees in the public sector generally or in relation to any class of employees in the public sector, make an agreement or arrangement in writing with respect to any of the matters in respect of which a collective agreement may be made.

32. (2) Any agreement or arrangement made by the Trades Union Congress and the Government under subsection (1) shall, in so far as its provisions are not inconsistent with the other provisions of this Act but notwithstanding anything contained in any other written law or contract or award of any arbitrator or arbitration tribunal, be binding on every employee, in relation to whom the agreement or arrangement is made, and his employer and be enforceable by or against each such employee or his employer, with effect from the date specified for that purpose in the agreement or arrangement or, if no such date is specified, with effect from the date on which the agreement or arrangement is signed by all parties thereto or their representatives or, if the agreement or arrangement is signed by the parties thereto or their representatives on different dates, the last of the dates on which any of such parties or representatives signed the agreement or arrangement.

32. (3) An agreement or arrangement made by the Trades Union Congress and the Government under subsection (1) may contain a provision stating that the agreement or arrangement or part thereof is intended not to be legally enforceable and-

- (a) where the provision states that the whole of the agreement or arrangement is intended not to be legally enforceable, subsection (2) shall not apply to the whole of the agreement or arrangement; and
- (b) where the provision states that part of the agreement or arrangement is intended not to be legally enforceable, subsection (2) shall not apply to that part but shall apply to the remaining part of the agreement or arrangement.

32. (4) An agreement or arrangement made under subsection (1) shall be published by the Government in the Gazette as soon as may be possible after it is signed by all the parties thereto or their representatives:

Provided that the validity or enforceability of the agreement or arrangement shall not be affected by its non-publication in the Gazette.

32. (5) Where in relation to the same employee a collective agreement to which section 28A applies and an agreement or arrangement made under subsection (1) are in force, and the provisions of the collective agreement in regard to any matter, being provisions which are intended to be legally enforceable, are in conflict with the provisions of the agreement or arrangement made under subsection (1) in regard to that matter, also being provisions which are intended to be legally enforceable, the provisions of the agreement or arrangement made under subsection (1) in regard to that matter shall prevail.

32. (6) The Trades Union congress and a public sector employer may, in relation to the employees employed by or in the service of the public sector employer or any class of such employees, make an agreement or arrangement in writing with respect to any of the matters in respect of which a collective agreement may be made and the other provisions of this section, excluding subsection (1), shall *mutatis mutandis* apply to, and in relation to, the agreement or arrangement so arrived at subject to the modification that for every reference therein to an agreement or arrangement made by the Trades Union Congress and the Government under subsection (1) there shall be substituted a reference to the agreement or arrangement made under this subsection.

32. (7) In this section-

(a) "award" includes an interim award;

(b) "employee in the public sector" means an employee employed by or in the service of a public sector employer; (c) "public sector employer" means-

(i) the Government;

(ii) any public corporation, or any other corporate body in which the controlling interest vests in the State or in any agency on behalf of the State.

PART VIII MISCELLANEOUS

Abstracts of Act and regulations to be displayed by employer. [39 of 1956]

33. (1) Every employer shall display, or cause to be displayed, and shall keep displayed, at some conspicuous place on his premises, a notice containing such provisions of this Act and of any regulations or orders made thereunder, as may be prescribed by the Minister.

33. (2) The employer shall at all times keep the notice in such condition and position that it can easily be read by his employees.

33. (3) If any employer contravenes any of the requirements of this section he shall be liable on summary conviction to a fine of one hundred dollars.

General Powers of designated officer. [8 of 1960, 12 of 1967, 4 of 1972]

34. (1) Any officer of the Labour Department designated for the purposes of this section by the Minister (in this section referred to as a designated officer) is empowered and authorised-

(a) whenever he has reasonable cause to believe that labour is employed in any premises, to enter, inspect and examine such premises and every part thereof at any hour of the day or night whether by day or by night, and to obtain and to require from any employer information as to the wages, hours and conditions of work of those so employed;

(b) to take with him a member of the police force if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(c) to carry out any examination, test or enquiry which he may consider necessary in order to satisfy himself that the provisions of any law relating to the employment of persons are being strictly observed and, in particular to-

(i) interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of any such law or to apply for information to any other person whose evidence he may consider necessary:

Provided that no person shall be required under this subparagraph to answer any question, or to give any evidence, tending to incriminate himself;

(ii) require the production of any books, registers or other documents, the keeping of which is prescribed by any law relating to conditions of work, in order to see that they are in conformity with such law and to copy such documents or make extracts from them or remove them to his office:

Provided that notice in writing to produce these books, registers or other documents has been served on the employer at least five days in advance;

(iii) enforce the posting of notices required by any law; and

(iv) take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for this purpose;

(d) to require from employers generally returns giving information as to the wages, hours and conditions of work of their employees; and

(e) to inspect the register of accidents kept in pursuance of section 3 of the Accidents and Occupational Diseases (Notification) Act and to obtain and to require from an employer information as to the causes and circumstances relating to any accident that may have occurred on the employer's premises.

34. (2) A designated officer shall, when on an inspection visit, notify the employer or his representative of his presence, unless he considers that such notification may be prejudicial to the performance of his duties.

34. (3) Every employer shall grant to his workers and their representatives every facility for communicating freely with the designated officer when on a visit of inspection.

34. (4) Any person who without good and sufficient cause-

(a) fails on application being made to him in writing to furnish to any designated officer any information or any returns specified in subsection (1) or to produce any books, registers or other documents required by a designated officer under and in accordance with subsection (1);

(b) fails to grant to his workers every facility for communicating freely with any designated officer on a visit of inspection, shall be liable on summary conviction to a fine of thirty-one thousand, two hundred and fifty dollars; and any person who knowingly furnishes or allows to be furnished to a designated officer or other officer any information, return, book, register or document which is false in any material particular, shall be liable on summary conviction in respect of each offence to a fine of sixty-two thousand, five hundred dollars and to imprisonment for three months.

Certificate of appointment of Senior Labour Officer and Labour Officer.

[8 of 1960]

35. (1) Every Senior Labour Officer or Labour Officer appointed under section 3(1) shall be furnished with a certificate of his appointment in the prescribed form.

35. (2) When visiting any premises in the execution of his duty under this Act, every Senior Labour Officer and Labour Officer shall, if required so to do, produce the said certificate to the employer or his representative.

Obstruction of officer in execution of duty.

36. Any person who hinders, molests or obstructs any officer in the execution of his duty under this Act shall be liable on summary conviction to a fine of three hundred dollars or to imprisonment for three months.

Offence to reveal information. [8 of 1960, 29 of 1961, 12 of 1967]

37. (1) The Chief Labour Officer, Deputy Chief Labour Officer or Assistant Chief Labour Officer and every Senior Labour Officer or Labour Officer shall, even after leaving the public service, maintain secrecy concerning any manufacturing or commercial secrets or working processes which may come to his knowledge in the course of his duties.

37. (2) Every person who wilfully acts in contravention of this section shall be liable on summary conviction to a fine of four hundred dollars and to imprisonment for six months.

Injunction not to be granted against functioning of arbitration tribunal. [9 of 1984]

38. (1) Notwithstanding anything contained in any other written law, where any matter has been referred for settlement to the arbitration of an arbitration tribunal under section 4, no court shall make an interlocutory order (whether *ex parte* or with notice) in any cause or matter pending before it staying, or having the effect of staying, the operation of the reference or granting an injunction prohibiting, or having the effect of prohibiting, the arbitration tribunal from exercising or performing its functions in respect of the matter so referred.

38. (2) Where before the coming into operation of this section a court has made an interlocutory order granting an injunction prohibiting, or having the effect of prohibiting, any arbitration tribunal, to whom any matter has been referred for settlement under section 4, from exercising or performing its functions and that cause or matter has not been finally determined by the court before the coming into operation of this section, any of the parties to the cause or matter in which the interlocutory order has been made may, within three months of the coming into operation of this section, apply to the court in which the cause or matter is pending requesting the cancellation of the interlocutory order and thereupon the court shall, after giving all the parties concerned a reasonable opportunity of being heard, pass appropriate orders in accordance with the provisions of this

section so as to enable the arbitration tribunal to exercise and perform its functions.

38. (3) The preceding provisions of this section shall not apply to any application properly made under article 153 of the Constitution.

38. (4) A cause or matter in which the legality or propriety of the reference of any matter for settlement to the arbitration of an arbitration tribunal under section 4 is questioned shall be heard and finally determined by the court in which it is pending, with all convenient speed and all the parties to the cause or matter shall give full cooperation to the court for this purpose.

38. (5) The provisions of this section shall apply also in relation to any arbitration tribunal to which any matter has been referred under section 4 before the date on which this section comes into operation, if that arbitration tribunal has not, before that date, effected a settlement of the matter referred to it or made its final award in relation to that matter.

38. (6) In this section "interlocutory order" includes an order granting an interim injunction.

General power of Minister to make regulations [9 of 1984]

39. The Minister may make regulations-

- (a) prescribing the form in which the information and the returns in subsection (1) of section 30 shall be furnished;
- (b) prescribing or empowering the Permanent Secretary to approve of the form or manner in which any pay-lists or statistics of earnings of employees and of deductions made therefrom shall be kept by any employer;
- (c) prescribing any other form required for the purposes of this Act, including the form for a notice under section 28A(5);
- (d) prescribing the fees payable under section 28A(7) for obtaining a copy of a collective agreement; and
- (e) generally for the purposes of this Act.

Penalty for breach of regulations. [20 of 1994]

40. There may be annexed to the breach of any regulation made under this Act a penalty not exceeding the sum of eighteen thousand, seven hundred and fifty dollars.

Power of Minister to make rules.

41. The Minister may make rules-

- (a) regulating the procedure to be followed by Advisory Committees appointed under this Act;
- (b) regulating the amount, and payment, of remuneration, fees, costs and expenses in respect of any inquiry by an Advisory Committee under this Act;
- (c) regulating or prohibiting the publication of reports submitted by Advisory Committees appointed under this Act and the publication of any evidence given before such Committees; and
- (d) generally to give effect to the provisions of this Act relating to the holding of inquiries by Advisory Committees.

Extended jurisdiction.

42. Any proceeding under this Act may be taken in the magistrate's court of the district in which the contract is made or of the district in which the offence or breach is alleged to have been committed.

Institution of prosecutions by Permanent Secretary.

43. The Permanent Secretary may institute or cause to be instituted any prosecution for the purpose of enforcing any of the provisions of this Act and any officer of the Department of Labour may appear as prosecutor for and on behalf of the Permanent Secretary.

Procedure.

44. All complaints under this Act may be heard and determined and all offences and penalties may be prosecuted and enforced in the manner provided by the Summary Jurisdiction Acts:

Provided that any order for the payment or recovery of wages or compensation shall be enforceable in the same manner as an order for the payment of compensation under the Summary Jurisdiction (Procedure) Act.

General penalty. [20 of 1994]

45. Any person who by any act or omission contravenes or fails to comply with any provision of this Act shall, unless a penalty is otherwise specifically provided, be liable to pay a fine of six thousand, two hundred and fifty dollars.

Expenses of execution of Act. How defrayed.

46. The expenses of the Ministry in the execution of this Act shall be defrayed out of moneys provided by Parliament.

No order for attachment of wages of certain employees.

[8 of 1960]

47. No order for the attachment of the wages of any servant, labourer or workman shall be made by the High Court or by a magistrate's court.