

Settlement of Labour Dispute Law

Legal provision	Issues	Problems/challenges	Proposed amendments
General	Distinction of disputes	Interest disputes shall not be submitted to compulsory arbitration. Only voluntary arbitration is permissible.	
Ch II, 3	Requirement for employer to form WCC	Employer cannot be responsible for nominating worker representatives. This may lead to accusations of employer control of WCC.	<p>Wording shall be changed to read: “In any trade in which more than 30 workers are employed, the employers and the workers, with the view to negotiating and concluding collective agreement, shall...”</p> <p>Employers can be required to make their WCC nominees known to workers.</p>
Ch III – V	Substitute representative for conciliation and arbitration	Sometimes conciliators and arbitrators cannot attend and alternatives should be able to go in their place.	A new provision should be included in the law that allows any representative to send an alternate for a particular case if they are not available. The same structure and individual qualifications would apply to substitutes.

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Ch III, IV & V 13 & 14	Role of government in conciliation and arbitration	Government should not be involved in conciliation and arbitration	<p>References to government in the sections on the conciliation body, arbitration body and council should be removed. They should be replaced by: “A representative jointly agreed by the employer representative and the worker representative.”</p> <p>The government can provide a list of recommended and qualified individuals for reference. However, it is entirely up to workers and employers to select conciliation members, and these members do not have to be from the government list.</p>

Legal provision	Issues	Problems/challenges	Proposed amendments
Ch III, 10 (a)-(f)	Conciliation body members	Government representatives should not be on the conciliation body	<p>The conciliation body shall be comprised of three people:</p> <ol style="list-style-type: none"> 1. A representative nominated by the employer 2. A representative nominated by the worker 3. A representative jointly agreed by the employer representative (listed in 1) and the worker representative (listed in 2)
Ch IV & V	Size of arbitration body and arbitration council	The arbitration body is too large	<p>The arbitration body should be comprised of three people:</p> <ol style="list-style-type: none"> 1. A representative nominated by the employer 2. A representative nominated by the worker 3. A representative jointly agreed by the employer representative (listed in 1) and the worker representative (listed in 2)

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Ch V, 21(a)	Duties of arbitration council	The duty of the arbitration council should be to review law, contracts and CBAs	<p>The following provisions from Section 21 should be removed:</p> <ul style="list-style-type: none"> “standing and carrying out as the organization which is independent and impartial based on social justice, decent work and principles of equity in making decisions” <p>This should be replaced by:</p> <ul style="list-style-type: none"> “An independent and impartial body with the responsibility to arbitrate disputes based on relevant legal, contractual and collective bargaining agreements”
Ch V, 22	Ministry control over Arbitration Council	The Ministry should not control the Arbitration Council	Provision 22(a) and 22(b) should be removed.

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Ch VI, 23-26	Conciliation results	Conciliation agreements that are not honored by either party should result in referral to arbitration body	If either party fails to honor conciliation agreement within the stipulated period of time, the case can be referred directly to the Arbitration Body.
Ch X, 49	Government role in arbitration council	The government should have no role in Arbitration Body/Council	Provision 49 should be removed.
Ch X, 56	Members of Conciliation and Arbitration	Conciliation and Arbitration members are not civil servants and should be compensated by the disputing parties	Provision 56 shall read: “Members of the Conciliation Body, Arbitration Body and Arbitration Council have the right to enjoy a suitable subsidy and allowance paid by the government”.

Settlement of Labour Dispute Rules

Legal provision	Issues	Problems/challenges	Proposed amendments
Ch III	Qualifications of conciliation body members	Some conciliation members are not qualified to make decisions	<p>Conciliation body members should have the following qualifications:</p> <ol style="list-style-type: none"> 1. Graduate of a university. 2. Neutral – no affiliation or previous affiliation with employer or worker representatives. 3. Demonstrated familiarity with employment and labor law issues.
Ch IV	Qualifications of arbitration body members	Some arbitration body members are not qualified to make decisions	<p>Arbitration body members should have the following qualifications:</p> <ol style="list-style-type: none"> 1. Graduate of a university. Must have a degree in law. 2. Neutral – no affiliation or previous affiliation with employer or worker representatives. 3. Demonstrated familiarity with employment and labor law issues.

Legal provision	Issues	Problems/challenges	Proposed amendments
Ch V	Qualifications of arbitration council members	Some arbitration council members are not qualified to make decisions	<p>Arbitration council members should have the following qualifications:</p> <ol style="list-style-type: none"> 1. Graduate of a university. Must have a degree in law. 2. Neutral – no affiliation or previous affiliation with employer or worker representatives. 3. Demonstrated familiarity with employment and labor law issues.
Ch VI, 25	Decisions	The list of allowable decisions is unnecessary, incomplete, and biased towards workers.	“The Arbitration body or tribunal shall make a decision based on existing labor law, rules, regulations, directives, employment contracts, and any relevant collective bargaining agreements.”
Ch VI, 26	Compensation for illegal strikes	The rules do not mention compensation for illegal strikes, which employers should be owed when workers execute an illegal industrial action.	“In the decision, the manners and amounts of the damages from termination from work or damages for dismissal from work or damages for illegal lock-outs and strikes shall be mentioned...”

provision	Issues	Problems/challenges	Proposed amendments
Ch VII. 30(a) and (b)	Unequal provision for late payment	Provision does not mention worker late payment	“employer” should be changed to “worker or employer”
Ch VII. 32	Unequal provision for punishment	No mention of punishment for worker late payment	<p>“The employer or the worker shall be liable to be prosecuted if the defaulting period is over three months. However, the employer or the worker may apply to the Arbitration Council that he should not be prosecuted on any of the following reasons:</p> <p>(a). being declared the employer or worker is pauper (bankrupt)</p> <p>(b). The business is under liquidation</p> <p>(c). Occurring of a force majeure event which cannot be prevented by the employer or worker.</p> <p>(d). Any other sufficient reason</p>
Ch VII. 33	No mention of worker prosecution		The Arbitration Council... against the employer or worker within 15 days...
Ch VIII. 35	Minister intervention	There is no role for arbitrary intervention by the Minister. Damages should be determined according to law only.	

Thank You