
Fifth Session First Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

No. 1 of 1981

[L.S.]

AN ACT to amend the Education Act, 1966.

[Assented to 21st April, 1981]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows—

1. This Act may be cited as the Education Short title and
(Amendment) Act, 1981 and shall come into operation commencement
on a date as the President may appoint by Proclamation.

Amendment of
section 2 of
the Act

2. Section 2 of the Education Act, 1966 (hereinafter referred to as "the Act") is amended by deleting the definition of the expression "appropriate recognised association" and by inserting in their appropriate alphabetical order the following definitions:

"appropriate recognised association" means the appropriate recognised majority association recognised by the Minister of Finance under section 73(1);

"association" means

(a) an organisation or a trade union whose membership consists wholly or mainly of teachers; or

(b) a trade union whose membership consists of teachers together with public officers and officers in the service of a statutory authority as defined in section 2 of the Statutory Authorities Act, 1966,

16 of 1966

and in either case is an organisation or a trade union formed for purposes that include the regulation of relations between the teachers and the Minister of Finance in respect of the matters specified in section 62(1):

"Chief Personnel Officer" means the Chief Personnel Officer referred to in section 13(2) of the Civil Service Act, 1965;

29 of 1965

"trade union" means an association which is registered as a trade union under the Trade Unions Ordinance.'

Ch. 22. No. 9

Amendment of
section 53(1)
of the Act

3. Section 53(1) of the Act is amended by—

(a) deleting the semi-colon in paragraph (c) thereof and substituting therefor a comma;

(b) deleting paragraph (d) thereof.

4. Section 54A of the Act is repealed.

Repeal of
section 54A of
the Act

Amendment
of section
67(1) of the
Act

“4A. Section 67(1) of the Act is amended by inserting at the end thereof the following:—

“However, where there is pending before the Board an application for certification of recognition with respect to a bargaining unit or a petition for a variation of a bargaining unit, the Chief Personnel Officer shall not sign any agreement with any association relating to any of the matters specified in section 62(1) or any other matters concerning the members of the Teaching Service.””

5. Sections 71 to 74 of the Act are repealed and the following sections are substituted therefor:

Repeal of
sections 71 to 74
of the Act

“71. In this Part and in section 2—
Definitions.

“bargaining unit” means the unit of teachers determined by the Board as an appropriate bargaining unit;

“Board” means the Registration Recognition and Certification Board established and constituted under section 23 of 1972 21 of the Industrial Relations Act, 1972;

“Secretary” means the Secretary of the Board referred to in section 22(2) of 23 of 1972 the Industrial Relations Act, 1972.

72. (1) All applications for certification of recognition and questions as to the appropriateness of bargaining units shall be heard and be determined by the Board.

Functions of
Board

(2) Every party to a matter before the Board is entitled to appear at the hearing of the Board, if any, and may be represented by counsel or solicitor or by a duly authorised representative.

(3) The Board shall determine the periods that are necessary for the fair and adequate presentation of the matter by the respective parties thereto, and the Board may require those matters to be presented within the respective periods so determined.

(4) The Board may require evidence or arguments to be presented in writing and may decide the matters upon which it will hear oral evidence or arguments.

(5) All applications for certification or recognition and all questions as to the appropriateness of bargaining units brought before the Board shall be determined by a majority of the members of the Board present and entitled (and not otherwise disqualified to vote) in accordance with the provision of this Act.

(6) No decision, order, direction, declaration, ruling or other determination of the Board shall be challenged, appealed against, reviewed, quashed or called in question in any court on any account whatsoever; and no order shall be made or process entered or proceeding taken by or in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto or otherwise to question, review, prohibit, restrain or otherwise interfere with the Board or any proceedings before it.

(7) Subject to this subsection, for the purposes of dealing with any matter brought before it, the Board shall have all such powers, privileges and immunities as are vested in a Commissioner of Enquiry appointed under the Commissions of Enquiry Ordinance to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise and to call for the production of documents; and that Ordinance shall, for the purposes of dealing with such matters and exercising those powers and all other powers necessary or incidental thereto, apply as if expressly enacted herein.

(8) A summons signed by the Secretary to the Board shall have the same force and effect as any formal process capable of being issued in any action taken in the High Court of Justice for enforcing the attendance of witnesses and compelling the production of documents.

(9) For the purpose of the performance of its functions under this Act, the Board may co-opt the services of such public officers in the Ministry of Labour as the Minister of Labour may from time to time designate.

(10) The provisions of sections 25 and 26(1) to (4) of the Industrial Relations Act 1972 shall *mutatis mutandis* apply to this Part.

Board may
state case
to Court

72A. (1) During the hearing of any matter before the Board, the Board may, in its discretion, on the application of any party to such matter or on its own motion without such application, state a case on any point as to the interpretation or application of this Act or any other written law or rule of law, for the opinion of the Court.

(2) The Court shall hear and determine all questions arising on the case stated, and the determination of the Court on any such questions shall be conclusive for all purposes.

(3) The statement of facts in any case so stated shall, for the purpose of the determination thereof, be conclusive.

(4) In this section "Court" means the Industrial Court established under section 4 of the Industrial Relations Act, 1972.

73. (1) A member of the Board shall not, so long as he is in any way directly or indirectly concerned in any matter before the Board, take part in any deliberation or

Interest in
matter before
Board

decision of the Board on such matter or officiate at any ballot taken by the Board for the purpose of determining such matter.

(2) It shall be open to any member of the Board present at any meeting thereof to challenge the entitlement of any other member of the Board, other than the Chairman, to take part in any deliberation or decision on any matter before the Board, or to officiate at any ballot to be taken by the Board for the purpose of determining such matter, on the ground that such other member is directly or indirectly concerned in the matter before the Board by reason of the circumstances referred to in subsection (1).

(3) Upon any such challenge being taken, the Chairman shall enquire into the merits thereof and, after giving reasonable opportunity to the member challenged to be heard in answer thereto, the challenge shall be determined by a ruling of the Chairman, which ruling shall be binding and conclusive for all purposes.

(4) Where it is shown to the satisfaction of the Board that a member thereof has failed to comply with this section the Board may declare void all proceedings, determinations and other decisions, taken or made on this section, but no proceedings, determinations or other decisions of the Board taken or made on any occasion of such failure shall be, or be deemed to be, invalidated by reason only of such failure unless the Board so declares.

Recognition by
Minister of
Finance of
majority
association

74. (1) The Minister of Finance shall recognise such association that obtains certification of recognition as a recognised majority association to represent any bargaining unit in accordance with the provisions of this Part as the appropriate recognised association for the purpose of consultation and negotiation in respect of any of the matters

specified in section 62(1) and any other matters concerning the members of the Teaching Service.

(2) An association to which this Act applies may be registered as a trade union.

74A. (1) The provisions of this section apply to every association, other than a trade union, to which this Act applies. ^{Duty to keep accounting records}

(2) Every association to which this section applies shall—

- (a) cause to be kept proper accounting records with respect to its transactions and its assets and liabilities;
- (b) establish and maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and remittances;
- (c) make Rules providing for the good government of the association to carry out the objects of the association; and
- (d) file the Rules of the association with the Registrar General.

(3) Amendments to the Rules of an association shall be filed with the Registrar General and shall have effect from the date of the filing unless some later date is specified from which they shall have effect.

(4) For the purpose of paragraph (a) of subsection (2) proper accounting records shall not be taken to be kept with respect to the matters mentioned in that paragraph if there are not kept such records as are necessary to give a true and fair view of the state of the affairs of the association and to explain its transactions.

(5) The Rules made under subsection (2)(c) shall contain provisions in respect of the several matters specified in the ^{Second Schedule} Second Schedule.

(6) If the Rules of an association do not contain provisions relating to the matters mentioned in subsections (2)(c) and (5), the Registrar General shall not accept for filing such Rules and if filed the filing is void.

**Application for
certification of
recognition**

74B. (1) An association, upon filing an application for certification of recognition, shall apply to the Board in writing in accordance with this Part.

(2) An application under subsection

(1)—

(a) shall be in the prescribed form; and

(b) shall describe the proposed bargaining unit in respect of which certification is sought.

(3) The association making the application (herein referred to as the "claimant association") shall, within seven days thereof, transmit a copy of the application to the Minister of Finance.

(4) For the purposes of the Registration, Recognition and Certification Rules and Regulations made under this Act, the expression "employer" shall be read and construed as the Chief Personnel Officer.

**Determination
final**

74c. (1) Subject to this Act, all determinations of applications for certification of recognition by the Board under this Part as well as determinations as to the appropriateness of a bargaining unit under subsections (2) and (3) and as to variations thereof under section 74j shall be final for all purposes.

(2) The Board shall, on any application under section 74B(1), first determine the bargaining unit it considers appropriate in the circumstances (hereinafter referred to as the "appropriate bargaining unit") and in so doing the Board shall have regard to—

(a) the community of interest between the teachers in the proposed bargaining unit;

- (b) the nature and scope of the duties exercised by the teachers in the proposed bargaining unit;
- (c) the views of the Chief Personnel Officer and the association concerned as to the appropriateness of the bargaining unit;
- (d) the historical development in the Teaching Service, if any, of treating and negotiating with a view to the conclusion of an agreement or the revision or renewal thereof or the resolution of disputes;
- (e) any other matters the Board considers to be conducive to good industrial relations.

(3) In considering the appropriateness of a bargaining unit, the Board shall not be restricted by the terms of the application under section 74B(2)(b) and may, notwithstanding such terms, determine the bargaining unit most appropriate for teachers in accordance with subsection (2).

74D. (1) Subject to this Act, the Board shall certify as the appropriate recognised association that association which it is satisfied has, on the relevant date, more than fifty per cent of the persons comprised in the appropriate bargaining unit as members in good standing in the said bargaining unit. Certification by
Board

(2) Where it appears to the Board that more than one association has as members in good standing more than fifty per cent of the persons comprised in an appropriate bargaining unit, it shall certify as the appropriate recognised association that association which has the greatest support of members of the Teaching Service determined by preferential ballot, being in any event more than fifty per cent of persons in the bargaining unit.

(3) All questions as to membership in good standing shall be determined by the Board, but a person shall not be held to be a member in good standing, unless the Board is satisfied upon examination of an association's books and accounting records that—

- (a) the association of which it is alleged the person is a member in good standing has kept proper accounting records and followed sound accounting procedures and practices;
- (b) the particular person—
 - (i) has, after the payment of a reasonable sum by way of entrance fee, become a member of the association and has actually paid reasonable sums by way of subscriptions for a continuous period of eight weeks immediately before the application was made; or
 - (ii) has actually paid reasonable sums by way of subscriptions for a continuous period of not less than two years immediately before the application was made; and
- (c) no part of the funds of the association of which it is alleged the person is a member in good standing has been applied directly or indirectly in the payment of the entrance fee or subscriptions referred to in paragraph (b).

Effect of
certification

74E. Where an association is certified under this Part as the appropriate recognised association—

- (a) that association shall immediately replace any other association that immediately before such certification

- was the appropriate recognised association for the persons comprised in the bargaining unit and, subject to paragraph (c), shall have exclusive authority to be representative of such persons in the bargaining unit for consultation and negotiation in respect of any of the matters specified in section 62(1) and any other matters concerning such members of the Teaching Service so long as the certification remains in force;
- (b) if another association had previously been certified in respect of persons comprised in the bargaining unit, such certification of the other association shall be deemed to be revoked; and
- (c) if, at the time of certification, an agreement recorded and signed in accordance with section 67(1) is in force, the association shall be substituted as a party to the agreement in place of the association that was originally a party to such agreement.

74F. Where a claimant association fails in its application to be certified by the Board, the appropriate recognised association shall continue to have exclusive authority to be representative of such persons in the bargaining unit for consultation and negotiation in respect of any of the matters specified in section 62(1) and any other matters concerning such members of the Teaching Service so long as the certification remains in force.

Claimant association fails to be certified

74G. (1) Nothing in this Part shall be construed so as to permit the certification of more than one association as the appropriate recognised association to represent persons comprised in a bargaining unit.

Certification of one association

(2) In this Part "relevant date" means such date as the Board considers appropriate for the purpose of determining any matter before it under this Part.

Issue of
certificate

74H. (1) The Board shall issue a certificate under its seal to the association and to the Minister of Finance in every case in which it certifies an association as the appropriate recognised association.

(2) A certificate issued under subsection (1) shall state the following particulars:

- (a) the name of the association certified;
- (b) the bargaining unit;
- (c) the number of persons comprised in the bargaining unit at the relevant date;
- (d) such matters other than the foregoing as may be prescribed.

Application for
certification not
entertained

74I. (1) Subject to this Act, no application for certification of recognition under this Part shall be entertained or proceeded with where—

- (a) there is an appropriate recognised association for the same bargaining unit described in the application for certification; and
- (b) the application is made earlier than two years from the date on which the appropriate recognised association obtained certification as such, except that an application may be made by leave of the Court although two years have not expired since the certification was obtained.

(2) Where an association desires to obtain leave of the Court by virtue of the exception mentioned in subsection (1)(b) it shall make an application to the Court for the purpose and, if the Court is

satisfied that good reasons exist for the application to be made before the expiration of two years from the date when the appropriate recognised association obtained certification as such, it shall grant leave accordingly.

(3) In determining whether good reasons exist under subsection (2), the question whether the association making the application before the Court has as members in good standing more than fifty per cent of the persons comprised in the bargaining unit for which the appropriate recognised association is certified, may be taken into account, but may not be the sole reason on which leave is to be granted.

(4) Subject to this Act, no application for certification of recognition under this Part may be made by an association earlier than six months from the date when an application made by that association for certification of recognition with respect to the same bargaining unit or any part thereof was last determined or from the date when its certificate of recognition was cancelled.

(5) An application for certification of recognition under this Part once made may not be withdrawn, except by leave of the Board.

(6) In this section Court means the Industrial Court established under section 4^{23 of 1972} of the Industrial Relations Act, 1972.

74j. (1) The bargaining unit and the record of certification of recognition under this Part may be varied in accordance with this section.

Variation of bargaining unit after certification

(2) A petition may be made to the Board not earlier than one year after the certification of recognition—

(a) by the appropriate recognised association or by the Chief Personnel Officer for variation of a bargaining unit;

- (b) by persons within the bargaining unit, in respect of which the association is certified, for the exclusion from that bargaining unit of those persons or any of them on the ground that it is no longer an appropriate bargaining unit in so far as it includes those persons or any of them; or
- (c) by persons not within the bargaining unit for their inclusion in the bargaining unit for which the association is certified on the ground that it is an appropriate bargaining unit for their inclusion.

(3) *The Board shall not entertain such a petition under subsection (2) (b) unless it is satisfied that not less than one-twentieth of the persons comprised in the bargaining unit have signified in writing their concurrence in the petition.*

(4) Where the Board is satisfied, after having regard to the considerations set out in sections 74c(2) and (3), on a petition made under subsection (2) that persons should be included in or excluded from a bargaining unit, it may vary the bargaining unit accordingly and make an order for the variation of the certification, and record thereof made under section 74k.

(5) The certification of an association as an appropriate recognised association shall not be affected by reason only of inclusions in or exclusions from the bargaining unit pursuant to the provisions of this section.

Particulars to be entered in a record

74k. (1) Where an association is certified by the Board as the appropriate recognised association the particulars referred to in section 74H (2) shall be entered in a record of such association to be kept for that purpose by the Board in the prescribed form for the purposes of this Act; and the production of

the record or of a copy of the relevant portion thereof, certified by the Secretary, shall be admissible in all courts and shall be conclusive proof of the matters therein stated.

(2) Notwithstanding any rule of law to the contrary, an appropriate recognised association shall, for the purposes of this Act, be treated as such only when such particulars are recorded under subsection (1) and, subject to section 74E, as long as so recorded the association shall be deemed to continue always to be the appropriate recognised association.

74L. Notwithstanding the provisions of this Act, the Public Services Association, the Trinidad and Tobago Teacher's Union and the School Teacher's Association of Trinidad and Tobago shall continue to be recognised by the Minister of Finance as the bargaining bodies respectively for those members of the Teaching Service for whom they have hitherto been the bargaining bodies and shall continue to be so recognised until the Board certifies otherwise.

74M. The Board may make Rules regulating its own procedure and may make Rules providing for the form and manner in which matters may be brought before it and determined."

6. Section 84(11) of the Act is amended by deleting the first three lines thereof and substituting therefor the following:

"Subject to the provisions of this Act, the President may make Regulations as he considers necessary or expedient for the execution of this Act and in particular may make Regulations—".

7. The First Schedule to the Act is amended by deleting—

(a) the words from "Professional and Administrative Offices" to "Chief Education Officer";

(b) the words "Division II" wherever they appear.

Amendment of
Second Schedule
to the Act

8. The Second Schedule to the Act is amended by deleting paragraph 11 therefrom.

Passed in the House of Representatives this 16th day of March, 1981.

J. E. CARTER
Clerk of the House

Passed in the Senate this 24th day of March, 1981.

R. L. GRIFFITH
Clerk of the Senate