

GOVERNMENT NOTICE No. 133

24
10th A 1972 (240)

TRINIDAD AND TOBAGO

THE INDUSTRIAL RELATIONS ACT, 1972

MADE BY THE BOARD UNDER SECTION 26(5) OF THE INDUSTRIAL RELATIONS ACT, 1972

THE REGISTRATION RECOGNITION AND CERTIFICATION BOARD RULES, 1972

1. These Rules may be cited as the Registration Recognition and Certification Board Rules, 1972.

2. In these Rules:—

Definitions

“Act” means the Industrial Relations Act, 1972;

No. 23 of 1972

“Board” means the Registration Recognition and Certification Board established under section 21 of the Act;

“Chairman” means the Chairman of the Board or any person designated or elected to act in his place;

“committee” means a committee appointed by the Board under section 29 of the Act;

“proceeding” means a proceeding before the Board;

“regulations” means any regulations made under section 79 of the Act;

“Secretary” means the Secretary of the Board.

3. (1) At least twenty-four hours notice of every Board meeting shall be given by the Secretary to each member and alternate member. Meetings of the Board

(2) A member who is unable to attend any meeting summoned shall so inform his alternate and the Chairman or Secretary.

4. Unless otherwise specifically fixed by the Board, the quorum of any committee shall be the entire committee. Committee quorum

5. The prohibition as to interest contained in section 27(1)(b) of the Act, shall not apply to a shareholder whose shareholding does not exceed five per cent of the total nominal value of the issued share capital of a company concerned in a matter before the Board. Prohibition as to interest

6. (1) Where the Board is empowered or required to issue any notice or to make a request or to do any matter or thing, such notice, request, matter or thing shall be deemed to be properly issued, made or done, as the case may be, if so issued, made or done by the Secretary or by any other officer duly authorised for the purpose by the Board. General authority to officers of the Board to act

(2) The Board or the Chairman may authorise the Secretary or any other of its officers to carry out such functions with respect to the execution and implementation of its decisions and orders as may be necessary including such duties as the inspection and examination of paylists and membership

records, the posting of notices, the conduct of ballots, the convening and conducting of meetings with parties in connection with any application or other matter coming before the Board.

Documents
to be in
triplicate

7. Except otherwise expressly provided, where under any regulation or rule of the Board any document is required to be presented to the Board, such document shall be presented in triplicate.

Time of
filing
documents

8. Where by these Rules a document is required to be filed, filing shall be deemed to be done at the time the document is received at the office of the Board.

Enlarging
time

9. The Board may, upon such terms as it thinks fit enlarge the time prescribed by these Rules for doing any act, serving any notice, filing any report, document or paper or taking any proceeding and may do so although application therefor is not made until after the expiration of the time prescribed.

Adjourn-
ment of
matters

10. The Board may adjourn any hearing to such time and place and upon such terms as it considers fit.

Amendment
by leave of
the board

11. Any document filed in a proceeding may be amended by leave of the Board upon such terms and conditions as the Board may decide.

Disposal of
matters

12. (1) The Board may determine or dispose of any proceeding without further notice to any party thereto who has failed to file any document required in such proceeding, in the manner or form specified in these Rules.

(2) Where a party is served with a notice of hearing by the Secretary and fails to attend or be represented at the hearing (whether or not such party has made any written representations) the Board may proceed to consider the application or matter in the absence of that party or may adjourn the hearing to another date.

Consoli-
dation of
proceedings

13. Where the Board considers it appropriate, it may direct that a proceeding be consolidated with any other proceeding and it may issue such directions in respect of the conduct of the consolidated proceedings as it considers fit.

Service

14. The Secretary shall serve a copy of each document filed by a party in a proceeding on each of the other parties in the same proceeding.

Directions
for hearing

15. (1) Where the Board decides to conduct a hearing in connection with an application or any other matter before it, the Secretary shall summon the parties to attend to receive directions in accordance with subsections (3) and (4) of section 23 of the Act as may be necessary or appropriate.

(2) Any written submission or statement required from any party shall contain a concise statement of the material facts upon which the party proposes to rely at the hearing.

Conduct of
hearing

16. (1) The hearing in connection with an application or any other matter may be conducted by the Board or a committee and the decision of the Board or the committee, as the case may be, on the matters considered at the hearing shall be communicated to the parties concerned.

(2) Any person entitled to appear at a hearing shall be entitled to make opening statements, to call witnesses, to cross-examine any witnesses called by the other party and to address and make submissions to the Board.

17. The records of a trade union relating to its membership and any records that may disclose whether a person is or is not a member of a trade union which are produced in a proceeding shall be for the exclusive use of the Board and its officers and shall not, except with the consent of the Board, be disclosed to any person. Secrecy as to Union Membership

18. No proceeding shall be invalidated by reason only of any defect in form or of any technical irregularity. Saving

19. On the receipt of an application for certification of recognition from a union, the Board shall serve the employer a notice in the form set out as Form A in the Schedule and the employer shall not later than seven days from the date of such service submit to the Board a reply to such notice in the form set out as Form B in the Schedule. Notice to and reply by employer
Form A
Schedule

20. (1) Notice of every application made to the Board for certification of recognition shall be published in the *Trinidad and Tobago Gazette* and posted on the employer's premises in such a manner as it may be seen by the workers who may be comprised in the bargaining unit to which the application relates. Every such notice shall contain the name and address of the claimant union and the employer, a brief description of the bargaining unit in respect of which certification is sought and the date on which the application was received by the Board. Form B
Schedule
Notice of application

(2) Where an application for certification of recognition is in respect of a bargaining unit for which another trade union is already recognised, the Board shall inform such recognised union of the receipt of the application.

21. On the receipt of the reply or submission of the employer, or where the employer makes no reply or submission, an officer of the Board duly authorised in this regard may meet any of the parties concerned for the purpose of clarifying and examining information submitted in connection with the application, or with any matter arising therefrom or in any replies, document or records that may be required to be produced, and the officer shall make a report to the Board of his findings, which shall include relevant information regarding the matters referred to in paragraphs (a) to (e) of section 33(1) of the Act. Meeting for clarification or settling of matters regarding applications

22. In respect of each application for certification of recognition, the Board shall, after determining the bargaining unit which it considers appropriate, notify the employer, the claimant union, and where applicable the recognised majority union accordingly. Notification to parties of bargaining unit determined by Board

23. (1) Where the records and other documents produced by an employer are inadequate to enable the Board to determine the persons employed by such employer, the Board may require further information to be produced and may take into consideration such other relevant facts and information as it may otherwise obtain to enable it to determine the persons employed by the employer at the relevant date. Insufficiency of records, etc.

(2) Where the records, documents or other information produced by a trade union are in the opinion of the Board inadequate to establish that the requirements set out at paragraphs (a) to (d) of subsection (3) of section 34 of the Act have been satisfied, the Board may require further information to be produced and in the absence of such further information may refuse the application.

BALLOTING

Preferential
ballot

24. The Secretary shall be responsible for the conduct of any ballot and shall report thereon to the Board and, subject to the direction of the Board, may deal with all matters relating to the conduct of the ballot including any matter not specifically dealt with in these Rules.

Notice of
ballot

25.(1) A notice of every ballot to be taken under section 34, 73 or 75 of the Act shall be issued by the Board to each of the parties involved, in such form as the Board may approve, so however that every such notice shall include, as may be required in the circumstances, the following information—

- (a) the purpose for which the ballot is being conducted;
- (b) a list, approved by the Board, of workers qualified to take part in the ballot;
- (c) the date and time when and the place where applications for the insertion in or removal from such list of any names will be heard;
- (d) the date and time when and the place where the ballot will be conducted;
- (e) the means of identification to be produced by workers seeking to take part in the ballot to the officer of the Board supervising the ballot.

(2) It shall be the duty of the employer to post copies of the notice issued under paragraph (1) in a conspicuous place or places on his premises where they are most likely to come to the attention of the category or categories of workers qualified to take part in the ballot.

(3) Notices referred to in this rule shall be posted for at least ten clear days before the date fixed for the taking of the ballot.

(4) The Secretary or other officer duly authorised by the Board shall attend at the place designated in the notice issued under paragraph (1) to receive applications by the employer or any trade union involved in the ballot for the insertion in or the removal from the approved list of the name of any worker. The Secretary or other officer as aforesaid shall investigate every such application and may allow or disallow the application and shall notify the applicant and amend the list accordingly.

(5) Any person aggrieved by the decision of the Secretary or other officer may within forty-eight hours appeal in writing to the Board against such decision.

(6) Where the Board allows an appeal made under paragraph (5), the approved list shall be amended accordingly.

Conduct of
ballot

26. (1) All ballots shall be secret and shall be in such form as the Board may from time to time approve.

(2) An officer of the Board shall take whatever steps appear to him to be necessary and proper to ensure:—

- (a) that only workers whose names appear on the final list approved by the Board are permitted to take part in the ballot; and to that end may require the production of identification cards or such other documents as he may consider sufficient evidence of identification;
- (b) that workers qualified to take part in a ballot are permitted to register their votes in secrecy and without interference, restraint or coercion;
- (c) that a worker having cast his vote is not permitted to vote on a second occasion at the same ballot.

(3) The ballot shall be conducted as specified in the notice issued by the Board under rule 24 and in such a manner so as to cause no unnecessary inconvenience to the workers qualified to take part in the ballot.

(4) Save as the Board may in any particular case otherwise direct, all workers qualified to take part in a ballot shall do so in person.

(5) The Board may permit agents nominated in advance by the employer or by any trade union involved in the ballot to be present and to perform the functions set out in paragraph (6) hereunder. Any agent so nominated shall be an officer or employee of the employer, or an official or member of a trade union involved.

(6) An agent nominated as aforesaid shall be permitted to do any of the following acts or things, and nothing else in connection with the ballot:—

- (a) act as checker at the polling place and at the counting of ballots;
- (b) assist in the identification of voters;
- (c) subject to rule 28, challenge the right of any worker to vote;
- (d) bring to the notice of the officer of the Board conducting the ballot any irregularities in the conduct of the voting.

27. A worker qualified to take part in the ballot shall comply with such Voting procedures as may be set out in any notice issued by the Board, copies of which shall be posted at each place appointed for polling.

28. (1) An agent shall be entitled to challenge any worker who he has reasonable cause to believe is not qualified to take part in the ballot by stating Challenge of Voters to the supervising officer at the time that the ballot paper is handed to such worker and before such worker casts his vote the grounds on which the challenge is made.

(2) The supervising officer shall thereupon hand the challenger the form of challenge approved by the Board and shall request the challenger to complete and sign the form.

(3) If the challenger fails to complete and sign the form the supervising officer shall ignore the challenge and direct that the voter cast his vote in the manner prescribed.

(4) Where the challenger completes and signs the form, the supervising officer shall direct the worker to cast his vote and thereupon the officer shall place in a separate envelope the envelope labelled "Challenged Vote" and the form completed in accordance with paragraph (2). The envelope shall in each case be sealed.

(5) The Board shall decide on the validity of any votes which have been duly challenged.

Submission of result of ballot

29. At the close of the voting, the votes shall, at each place appointed for polling, be counted by the supervising officer in the presence of the agent or agents, if any, and the result of the ballot shall be submitted to the Board as soon as reasonably possible thereafter.

SCHEDULE

THE REGISTRATION RECOGNITION AND CERTIFICATION BOARD RULES, 1972

FORM A

(Rule 19)

NOTICE OF APPLICATION FOR CERTIFICATION OF RECOGNITION

Name and Address of Claimant Union.....

Name and Address of Employer.....

To:

TAKE NOTICE that on.....19..... the claimant Union made an application to the Registration Recognition and Certification Board for certification as the recognised majority Union in respect of the workers comprised in the bargaining unit described in the application, a copy of which is attached.

2. You are requested to submit a Statement to the Board in the Form prescribed as Form B to the Rules so that your Statement is received by the Board not later than seven (7) days from the date of this Notice.

Dated this.....day of.....19.....

Secretary, Registration Recognition and Certification Board

THE REGISTRATION RECOGNITION AND CERTIFICATION BOARD RULES, 1972

(Rule 19)

FORM B

REPLY TO APPLICATION FOR CERTIFICATION OF RECOGNITION

Name and Address of Claimant Union.....

Name and Address of Employer.....

The Employer States as follows in respect of the Application:

1. (a) Correct Name of Employer.....

(b) Address of Employer.....

(c) Address of Employer for Service.....

2. General nature of the Employer's business.....

3. Total Number of Workers employed in the undertaking(s) or business of which the bargaining unit proposed by the claimant Union is a part

4. Number of Workers comprised in the proposed bargaining unit described by the Claimant Union.....

5. Detailed description of what the Employer considers to be the appropriate bargaining unit that should be established in pursuance of this application

6. Number of Workers comprised in the bargaining unit proposed by the Employer at (5) above.....

7. The Name and Address of any other Trade Union known to the Employer as Claiming to be the bargaining agent on behalf of, or to represent any workers who may be covered by this application.....

8. The Employer is, or was, a party to, or bound by a Collective Agreement, a copy of which is enclosed, and which

(a) was signed on the.....day of.....19.....

(b) became effective on the.....day of.....19.....

(c) contains the following provision relating to its termination or renewal.....

9. Other relevant statements (Use additional pages if necessary).....

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Dated at this day of , 19.....

*.....
Signature of/for the Employer

Made this 20th day of August, 1972.

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Chairman, Registration Recognition and Certification Board

*State position held by signatory.