

LAWS OF TRINIDAD AND TOBAGO

INDUSTRIAL RELATIONS ACT

CHAPTER 88:01

Act
23 of 1972
Amended by
42 of 1972
11 of 1975
25 of 1977
44 of 1978
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Corrigendum

At page 84 in regulation 12(2) in line 1, for the word "Regulation" substitute the word "regulation".

CHAPTER 88:01
INDUSTRIAL RELATIONS ACT

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FIRST SCHEDULE.

SECOND SCHEDULE.

CHAPTER 88:01

INDUSTRIAL RELATIONS ACT

An Act to repeal and replace the Industrial Stabilisation Act 1965, and to make better provision for the stabilisation, improvement and promotion of industrial relations. 23 of 1972.

[31ST JULY 1972]

Commence-
ment.
119/1972.

WHEREAS it is enacted *inter alia* by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect notwithstanding sections 4 and 5 of the Constitution and, if any such Act does so declare, it shall have effect accordingly:

And whereas it is provided by section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that house:

And whereas it is necessary and expedient that the provisions of this Act shall have effect notwithstanding sections 4 and 5 of the Constitution:

Enacted by the Parliament of Trinidad and Tobago as follows: Enactment.

1. (1) This Act may be cited as the Industrial Relations Act. Short title.

(2) This Act shall have effect notwithstanding sections 4 and 5 of the Constitution. Act of variance with the Constitution.

PRELIMINARY

2. (1) In this Act—
“bargaining agent” means a trade union certified as such by the Board with respect to a bargaining unit for the purpose of collective bargaining;

Interpretation.
[11 of 1975
25 of 1977].

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

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

“collective agreement” means an agreement in writing between an employer and the recognised majority union on behalf of workers employed by the employer in a bargaining unit for which the union is certified, containing provisions respecting terms and conditions of employment of the workers and the rights, privileges or duties of the employer or of the recognised majority union or of the workers, and for the regulation of the mutual relationship between an employer and the recognised majority union;

“collective bargaining” means treating and negotiating with a view to the conclusion of a collective agreement or the revision or renewal thereof or the resolution of disputes;

“company” means a body corporate and an unincorporated association and includes a partnership and a firm;

“Court” means the Industrial Court established under this Act;

“employer” means a person who employs a worker and the term shall include—

- (a) such persons acting jointly for the purpose of collective bargaining;
- (b) an association or organisation of employers that is a trade union registered under the Trade Unions Act; and
- (c) a person for whose benefit work or duties is or are performed by a worker under a labour only contract, within the meaning of subsection (4)(b);

Ch. 88:02.

First
Schedule.

“essential industry” means an industry specified in the First Schedule;

Second
Schedule.

“essential services” means the services set out in the Second Schedule;

8 of 1965.

“former Act” means the Industrial Stabilisation Act 1965 (repealed by this Act);

“industrial action” means strikes and lockouts, and any action, including sympathy strikes and secondary boycotts (whether or not done in contemplation of, or in furtherance of, a trade dispute), by an employer or a trade union or other organisation or by any number of workers or other persons to compel any worker, trade union or other organisation, employer

or any other person, as the case may be, to agree to terms of employment, or to comply with any demands made by the employer or the trade union or other organisation or by those workers or other persons, and includes action commonly known as a "sit-down strike", a "go-slow" or a "sick-out", except that the expression does not include—

- (a) a failure to commence work in any agricultural undertaking where work is performed by task caused by a delay in the conclusion of customary arrangements between employers and workers as to the size or nature of a task; and
- (b) a failure to commence work or a refusal to continue working by reason of the fact that unusual circumstances have arisen which are hazardous or injurious to health or life;

"lockout" means the closing of a place of employment or the suspension of work by an employer or the refusal by an employer to employ or continue to employ any number of workers employed by him, done with a view to induce or compel workers employed by him to agree to terms or conditions of, or affecting employment, but does not include the closing of a place of employment for the protection of property or persons therein;

"Municipal Council" means a Council as defined in the Port-of-Spain Corporation Ordinance, the San Fernando Corporation Ordinance, or the Arima Corporation Ordinance;

Ch. 39 No. 1.
(1950 Ed.).
Ch. 39 No. 7.
(1950 Ed.).
Ch. 39 No. 11.
(1950 Ed.).

"office", in relation to a trade union or other organisation means—

- (a) the office of a member of the committee of management of the trade union or other organisation;
- (b) the office of president-general, president, vice-president, secretary, assistant-secretary, shop steward or other executive officer, by whatever name called, of the trade union or other organisation;
- (c) the office of a person holding, whether as a trustee or otherwise, property of the trade union or other organisation or property in which the trade union or other organisation

has any beneficial interest; and

- (d) every office within the trade union or other organisation for the filling of which an election is conducted within the trade union or other organisation;

“person” includes a company and a trade union;

“recognised majority union” means a trade union certified under Part 3 as the bargaining agent for workers comprised in a bargaining unit;

“Registrar” means the person for the time being performing the duties of Registrar of the Court and includes any Deputy or Assistant Registrar;

“strike” means a cessation of work, a refusal to work, to continue to work or to take up work by workers acting in concert or in accordance with a common understanding, or other concerted activity on the part of workers in contemplation of, or in furtherance of, a trade dispute, except that the expression does not include action commonly known as a “sit-down strike”, “go-slow” or “sick-out”;

“trade dispute” or “dispute”, subject to subsection (2), means any dispute between an employer and workers of that employer or a trade union on behalf of such workers, connected with the dismissal, employment, non-employment, suspension from employment, refusal to employ, re-employment or reinstatement of any such workers, including a dispute connected with the terms and conditions of the employment or labour of any such workers, and the expression also includes a dispute between workers and workers or trade unions on their behalf as to the representation of a worker (not being a question or difference as to certification of recognition under Part 3);

Ch. 88:02.

“trade union” or “union” means an association or organisation registered as a trade union under the Trade Unions Act, not being an association or organisation of employers registered as a trade union under that Act;

“worker”, subject to subsection (3), means—

- (a) any person who has entered into or works under a contract with an employer to do any skilled, unskilled, manual, technical, clerical

or other work for hire or reward, whether the contract is expressed or implied, oral or in writing, or partly oral and partly in writing, and whether it is a contract of service or apprenticeship or a contract personally to execute any work or labour;

- (b) any person who by any trade usage or custom or as a result of any established pattern of employment or recruitment of labour in any business or industry is usually employed or usually offers himself for and accepts employment accordingly; or
- (c) any person who provides services or performs duties for an employer under a labour only contract, within the meaning of subsection (4)(b);
and includes
- (d) any such person who—
 - (i) has been dismissed, discharged, retrenched, refused employment, or not employed, whether or not in connection with, or in consequence of, a dispute; or
 - (ii) whose dismissal, discharge, retrenchment or refusal of employment has led to a dispute; or
- (e) any such person who has ceased to work as a result of a lockout or of a strike, whether or not in contravention of Part 5,

as the case may be.

(2) For the purposes of this Act—

- (a) any question or difference as to the interpretation or application of—
 - (i) an order or award of the Court, or of any provision thereof; or
 - (ii) the provisions of a registered agreement (within the meaning of Part 4); and
- (b) any question or difference as to the amendment of a registered agreement (within the meaning of Part 4),

shall be deemed not to constitute a trade dispute.

(3) For the purposes of this Act, no person shall be regarded as a worker, if he is—

- (a) a public officer, as defined by section 3 of the Constitution;
 - (b) a member of the Defence Force or any ancillary force or service thereof, or of the Police, Fire or Prison Service or of the Police Service of any Municipality, or a person who is employed as a rural constable or estate constable;
 - Ch. 39:01. (c) a member of the Teaching Service as defined in the Education Act, or is employed in a teaching capacity by a university or other institution of higher learning;
 - Ch. 79:02. (d) a member of the staff and an employee of the Central Bank established under the Central Bank Act;
 - (e) a person who, in the opinion of the Board—
 - (i) is responsible for the formulation of policy in any undertaking or business or the effective control of the whole or any department of any undertaking or business; or
 - (ii) has an effective voice in the formulation of policy in any undertaking or business;
 - (f) employed in any capacity of a domestic nature, including that of a chauffeur, gardener or handyman in or about a private dwelling house and paid by the householder;
 - Ch. 39:54. (g) an apprentice within the meaning of the Industrial Training Act.
- (4) For the purposes of this Act—
- Ch. 23:01. (a) the Chief Personnel Officer, referred to in section 13 of the Civil Service Act, shall be deemed to be the employer of any worker employed by the Government;
 - (b) where a person engages the services of a worker for the purpose of providing those services to another, then, such other person shall be deemed to be the employer of the worker under a labour only contract.

or other work for hire or reward, whether the contract is expressed or implied, oral or in writing, or partly oral and partly in writing, and whether it is a contract of service or apprenticeship or a contract personally to execute any work or labour;

- (b) any person who by any trade usage or custom or as a result of any established pattern of employment or recruitment of labour in any business or industry is usually employed or usually offers himself for and accepts employment accordingly; or
- (c) any person who provides services or performs duties for an employer under a labour only contract, within the meaning of subsection (4)(b);
and includes
- (d) any such person who—
 - (i) has been dismissed, discharged, retrenched, refused employment, or not employed, whether or not in connection with, or in consequence of, a dispute; or
 - (ii) whose dismissal, discharge, retrenchment or refusal of employment has led to a dispute; or
- (e) any such person who has ceased to work as a result of a lockout or of a strike, whether or not in contravention of Part 5,

as the case may be.

(2) For the purposes of this Act—

- (a) any question or difference as to the interpretation or application of—
 - (i) an order or award of the Court, or of any provision thereof; or
 - (ii) the provisions of a registered agreement (within the meaning of Part 4); and
- (b) any question or difference as to the amendment of a registered agreement (within the meaning of Part 4),

shall be deemed not to constitute a trade dispute.

(3) For the purposes of this Act, no person shall be regarded as a worker, if he is—

(a) a public officer, as defined by section 3 of the Constitution;

(b) a member of the Defence Force or any ancillary force or service thereof, or of the Police, Fire or Prison Service or of the Police Service of any Municipality, or a person who is employed as a rural constable or estate constable;

Ch. 39:01.

(c) a member of the Teaching Service as defined in the Education Act, or is employed in a teaching capacity by a university or other institution of higher learning;

Ch. 79:02.

(d) a member of the staff and an employee of the Central Bank established under the Central Bank Act;

(e) a person who, in the opinion of the Board—

(i) is responsible for the formulation of policy in any undertaking or business or the effective control of the whole or any department of any undertaking or business; or

(ii) has an effective voice in the formulation of policy in any undertaking or business;

(f) employed in any capacity of a domestic nature, including that of a chauffeur, gardener or handyman in or about a private dwelling house and paid by the householder;

Ch. 39:54.

(g) an apprentice within the meaning of the Industrial Training Act.

(4) For the purposes of this Act—

Ch. 23:01.

(a) the Chief Personnel Officer, referred to in section 13 of the Civil Service Act, shall be deemed to be the employer of any worker employed by the Government;

(b) where a person engages the services of a worker for the purpose of providing those services to another, then, such other person shall be deemed to be the employer of the worker under a labour only contract.

(5) For the purposes of this Act, the Chief Personnel Officer, referred to in section 13 of the Civil Service Act, shall be deemed to be the employer of any worker employed by the Municipal Councils.

(6) In subsection (5) "worker" does not include an officer as defined in section 2 of the Statutory Authorities Act.

Ch. 24:01.

(7) Nothing in this Act shall be construed so as to abrogate, abridge or infringe the principle of freedom of association, whether of workers or of employers in trade unions or other associations or organisations, respectively.

3. (1) The Minister may, in relation to any matter or class of matters, delegate to any officer or officers within the Ministry of Labour any of his powers or functions under this Act, except this power of delegation, so that the delegated powers or functions may be exercised by such officer or officers with respect thereto.

Delegation by Minister.

(2) A delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the Minister.

PART I

THE INDUSTRIAL COURT

Establishment, Jurisdiction and Procedure

4. (1) For the purposes of this Act, there is hereby established an Industrial Court which shall be a superior court of record and shall have in addition to the jurisdiction and powers conferred on it by this Act all the powers inherent in such a court.

Establishment of Industrial Court.
[44 of 1978
2 of 1979].

(2) The Court shall have an official seal which shall be judicially noticed in all courts.

(2A) The Court shall consist of two Divisions, each consisting of a Chairman and such number of other members being not less than two, as may be appointed by the President of Trinidad and Tobago who shall in every instrument of appointment indicate to which Division the appointment is being made.

(2B) The two Divisions are—

- (a) the General Services Division which shall have and exercise the jurisdiction of the Court as set out in section 7 with respect to services other than essential services; and
- (b) the Essential Services Division which shall have and exercise the jurisdiction of the Court as set out in section 7 with respect to essential services.

Ch. 23:01.
Ch. 15:01.
Ch. 35:50.
Ch. 13:02.
Ch. 39:01.
Ch. 15:02.
Ch. 79:02.

(2c) The Special Tribunal established by the Civil Service Act, and referred to in the Police Service Act, the Fire Service Act, the Prison Service Act, the Education Act, the Supplemental Police Act and the Central Bank Act, shall consist of the Chairman of the Essential Services Division and two other members of that Division selected by him, and shall hear and determine disputes arising in the Civil Service, the Police Service, the Fire Service, the Prison Service, the Teaching Service, the Supplemental Police and the Central Bank as if those disputes arose in essential services.

(2D) A person appointed to the Court as a member of one Division or deemed by this Act to be such a member, may not sit as a member of the other Division unless invited to do so by the Chairman of that other Division, but while so sitting shall exercise all the functions of a member of that other Division.

(3) The Court shall consist of the following members:

(a) a President of the Court who shall be—

- (i) a Judge of the Supreme Court of Judicature designated, with his consent, by the President of Trinidad and Tobago after consultation with the Chief Justice; or
- (ii) a person who has the qualification (age excepted) to be appointed a Judge of the Supreme Court of Judicature and is appointed by the President of Trinidad and Tobago after consultation with the Chief Justice,

but a Judge designated President of the Court under subparagraph (i) shall be deemed not to have ceased to

hold his substantive office of Judge of the Supreme Court of Judicature by reason only of such designation and the provisions of section 136(2) of the Constitution shall be deemed to apply to proceedings in the Court:

- (b) a Vice-President of the Court, who shall be a barrister or solicitor of not less than ten years standing, appointed by the President of Trinidad and Tobago;
- (c) such number of other members as may be determined by the President of Trinidad and Tobago from time to time who shall be appointed by the President of Trinidad and Tobago from among persons experienced in industrial relations or qualified as economists or accountants, or who are barristers or solicitors of not less than five years standing.

(3A) The President of the Court shall be the Chairman of the Division of which he is a member and the Vice-President of the Court shall, where he is not a member of the Division of which the President is Chairman, be the Chairman of the other Division.

In every case where the Vice-President of the Court is a member of the same Division as the President of the Court or where there is no Vice-President, the Chairman of the other Division shall be so appointed by the President of Trinidad and Tobago.

(4) Where for any reason the President of the Court is unable to carry out his functions under this Act, the President of Trinidad and Tobago may designate the Vice-President of the Court to act in his place until the President of the Court is again able to carry out such functions or until another person is designated or appointed as President of the Court.

(5) Where for any reason the Vice-President of the Court is unable to carry out his functions under this Act, the President of Trinidad and Tobago may designate a person who is qualified for appointment as such to act in his place until the Vice-President of the Court is again able to carry out such functions or until another person is appointed Vice-President of the Court.

(6) Subject to subsections (4) and (5), where for any reason any member of the Court, other than the President

of the Court or Vice-President of the Court, is unable to carry out his functions under this Act, the President of Trinidad and Tobago may appoint some other duly qualified person to be a member of the Court for the period of such inability.

(7) A person appointed to act under subsection (4), (5) or (6) shall have and exercise the same powers and authority as the member of the Court for whom he is acting.

(8) A member of the Court appointed, other than under subsection (3)(a)(i), may be removed from office during his term of office only for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause or for misbehaviour), but shall not be removed except in accordance with section 106 of the Constitution.

(9) Notwithstanding that his term of office has expired, a member of the Court, other than one designated under subsection (3)(a)(i), may, with the permission of the President of Trinidad and Tobago acting in accordance with the advice of the President of the Court, continue in office for such period after the end of his term as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before the term of office expired.

(10) The Court shall be deemed to be duly constituted notwithstanding any vacancy in any of the offices referred to in this section.

(11) A person who immediately before the commencement of this Act is a member of the Court, is deemed to be a member of the General Services Division.

Period of
appointment,
remuneration,
etc.

5. (1) The members of the Court appointed, other than under section 4(3)(a)(i), shall be paid such salaries as the President of Trinidad and Tobago may determine, and shall hold office for such period, being not less than three or more than five years as is specified in their respective instruments of appointment, but shall be eligible for re-appointment.

(2) The President of the Court and other members of the Court shall receive such allowances as may be

prescribed by Regulations made by the President of Trinidad and Tobago.

(3) The salary and allowances payable to a member of the Court appointed, other than under section 4(3)(a)(i), and his other terms of service shall not be altered to his disadvantage after his appointment, and, for the purposes of this subsection, in so far as the terms of service of any person depend upon the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(4) A member of the Court, other than a person appointed under section 4(3)(a)(i) or the widow, children, dependants or personal representatives of such a member, may be granted such gratuity, pension or other superannuation benefits as may be prescribed by Regulations made by the President of Trinidad and Tobago. Any Regulations made under this subsection shall be subject to gative resolution of the House of Representatives.

(5) The salaries, allowances, gratuity, pension or other superannuation benefits payable under this section shall be a charge on the Consolidated Fund.

6. There shall be appointed a Registrar and other officers of the Court who shall be public officers. Appointment of Registrar.

7. (1) In addition to the powers inherent in it as a superior court of record, the Court shall have jurisdiction— Jurisdiction of Court. [44 of 1978].

- (a) to hear and determine trade disputes;
- (b) to register collective agreements and to hear and determine matters relating to the registration of such agreements;
- (c) to enjoin a trade union or other organisation or workers or other persons or an employer from taking or continuing industrial action;
- (d) to hear and determine proceedings for industrial relations offences under this Act;
- (e) to hear and determine any other matter brought before it, pursuant to the provisions of this Act.

(2) The Court shall have the same power to punish contempts of the Court as is possessed by the High Court of Justice.

(3) Subject to subsection (6), the jurisdiction of the court in any matter before it may be exercised by one or more members, either assigned from his own Division by the Chairman of the Division before which the matter falls to be heard or invited by him from the other Division.

(4) In exercising such jurisdiction, the President, the Vice-President, or a member, of the Court, or a Division thereof, may sit at such places as the President of the Court may consider necessary for the despatch of the business of the Court.

(5) Where in any proceedings before two or more members of the Court a vacancy occurs in the membership in relation to such proceedings by reason of the inability from any cause of any member to continue to function, the remaining member or members may, subject to subsection (6), continue to hear and determine those proceedings notwithstanding such vacancy, and no act, proceedings or determination of the Court shall be called in question or invalidated by reason of such vacancy.

(6) The jurisdiction of the Court to punish a contempt of the Court committed in the face or hearing of the Court, when constituted by a single member, may be exercised by that member; in any other case, the jurisdiction of the Court to punish a contempt of the Court shall be exercised by at least two members of the Court sitting together, of whom one shall be the President, the Vice-President or the Chairman of a Division.

(7) In addition to any other action which the Court may take for contempt for non-compliance with or non-observance of its orders or awards the Court may impose fines for a contempt consisting of a failure to comply with its orders or awards.

(8) For the purposes of the foregoing provisions of this section a trade union and the holders of office in a trade union or other organisation shall be deemed to be guilty of a breach of an order or award (including an order made under section 65) by which the union or the other organisation is bound, if a worker or other person who is

a member of that union or other organisation, respectively, commits that breach by the direction or with the concurrence of any holder of an office in that trade union or other organisation.

(9) All matters brought before two or more members of the Court shall be determined by a majority of those members and where those members are equally divided, the Court shall order a rehearing of the matter, but so however that no member previously concerned in a matter shall sit on the rehearing thereof.

(10) Subject to section 4(2c), where a dispute involving a bargaining unit comprising workers in essential services as well as workers in services other than essential services is referred to the Court by the Minister, then, where the Minister advises in writing that the dispute arose in an essential service the dispute shall be heard by the Essential Services Division; in every other case the dispute shall be heard by the General Services Division.

8. (1) The Court, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders and other matters necessary or proper for the due exercise of its jurisdiction, shall have all such powers, rights and privileges as are vested in the High Court of Justice on the occasion of an action. Procedure.

(2) For the purpose of dealing with any matter before it, the Court may of its own motion summon any person who in the opinion of the Court is able to give such information as it considers necessary and may, in addition to and without prejudice to the generality of the foregoing, notwithstanding anything contained in the Income Tax Act or in any other law, require the Board of Inland Revenue or a Commissioner thereof or any other public officer to produce or make available any information which the Court may consider necessary; and the Court may, in its discretion and subject to such conditions as it may impose, disclose so much as it thinks fit of the information so produced or made available, and the Court may also prohibit the publication of any portion thereof. Ch. 75:01.

(3) Where the Court exercises its power to summon a person to give information under subsection (2), the

Court may direct that all or any part of the proceedings in the matter before it, as it may consider proper, be thereafter conducted *in camera*, and in any such case it may enjoin the parties or any of them and any member of the public and officers of the Court from disclosing any such information given in their presence and hearing.

(4) A summons signed by the Registrar shall be equivalent to any formal process issuable in any action taken in the High Court of Justice for enforcing the attendance of witnesses and compelling the production of documents.

(5) The Court may require evidence or argument to be presented in writing and may decide the matters upon which it will hear oral evidence or argument.

(6) The Court may appoint one or more assessors who, in the opinion of the Court, are qualified by reason of their knowledge and experience to assist in the determination of any matter over which it has jurisdiction; and in appointing assessors, the Court shall have regard to any submissions or objections that may be put forward by any party or parties appearing before it.

Court not bound to follow the rules of evidence.

Ch. 7:02.

9. (1) In the hearing and determination of any matter before it, the Court may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the Evidence Act, but the Court may inform itself on any matter in such manner as it thinks just and may take into account opinion evidence and such facts as it considers relevant and material, but in any such case the parties to the proceedings shall be given the opportunity, if they so desire, of adducing evidence in regard thereto.

(2) The parties to the proceedings are entitled to appear in person or may be assisted in the presentation of their respective cases by counsel or solicitor or by a duly authorised representative.

Powers of Court.

10. (1) The Court may in relation to any matter before it—

(a) remit the dispute, subject to such condition as it may determine, to the parties or the Minister for further consideration by them with a view

to settling or reducing the several issues in dispute;

- (b) make an order or award (including a provisional or interim order or award) relating to any or all of the matters in dispute or give a direction in pursuance of the hearing or determination;
- (c) without prejudice to and in addition to its powers under section 7(2), (6) and (7), award compensation on complaints brought and proved before it by a party for whose benefit the order or award was made regarding any breach or non-observance of an order or award of any term thereof (other than an order or award for the payment of damages or compensation);
- (d) dismiss any matter or part of a matter or refrain from further hearing or from determining the matter, if it appears that the matter or part thereof is trivial, or that further proceedings are unnecessary or undesirable in the public interest.

(2) The Court shall make no order as to costs in any dispute before it, unless for exceptional reasons the Court considers it proper to order otherwise and, notwithstanding anything to the contrary in the Supreme Court of Judicature Act, relating to the award of costs, the Court of Appeal shall in disposing of any appeal brought to it from the Court make no order as to costs, unless for exceptional reasons the Court of Appeal considers it proper to order otherwise. Ch. 4:01.

(3) Notwithstanding anything in this Act or in any other rule of law to the contrary, the Court in the exercise of its powers shall—

- (a) make such order or award in relation to a dispute before it as it considers fair and just, having regard to the interests of the persons immediately concerned and the community as a whole;

(b) act in accordance with equity, good conscience and the substantial merits of the case before it, having regard to the principles and practices of good industrial relations.

(4) Notwithstanding any rule of law to the contrary, but subject to subsections (5) and (6), in addition to its jurisdiction and powers under this Part, the Court may, in any dispute concerning the dismissal of a worker, order the re-employment or re-instatement (in his former or a similar position) of any worker, subject to such conditions as the Court thinks fit to impose, or the payment of compensation or damages whether or not in lieu of such re-employment or re-instatement, or the payment of exemplary damages in lieu of such re-employment or re-instatement.

(5) An order under subsection (4) may be made where, in the opinion of the Court, a worker has been dismissed in circumstances that are harsh and oppressive or not in accordance with the principles of good industrial relations practice; and in the case of an order for compensation or damages, the Court in making an assessment thereon shall not be bound to follow any rule of law for the assessment of compensation or damages and the Court may make an assessment that is in its opinion fair and appropriate.

(6) The opinion of the Court as to whether a worker has been dismissed in circumstances that are harsh and oppressive or not in accordance with the principles of good industrial relations practice and any order for compensation or damages including the assessment thereof made pursuant to subsection (5) shall not be challenged, appealed against, reviewed, quashed or called in question in any court on any account whatever.

(7) Where, in any proceedings for the non-observance of an order or award or the interpretation or application of a registered agreement (within the meaning of Part 4), it appears to the Court that a worker of the employer has

not been paid an amount to which he is entitled under such an order or award or such an agreement the Court, in addition to any other order, may order the employer to pay the worker the amount to which he is entitled and any such amount shall be deemed to be damages and be recoverable in the manner provided by section 14.

11. In addition to the powers conferred on it under the foregoing provisions of this Part, the Court may—

Additional
powers of
Court.

(a) proceed to hear and determine a trade dispute in the absence of any party who has been duly summoned to appear before the Court and has failed to do so;

(b) order any person—

(i) who in the opinion of the Court may be affected by an order or award; or

(ii) who in any other case the Court considers it just to be joined as a party,

to be joined as a party to the proceedings under consideration on such terms and conditions as may be prescribed by rules made by the Court;

(c) generally give all such directions and do all such things as are necessary or expedient for the expeditious and just hearing and determination of the trade dispute or any other matter before it.

12. (1) The Court or any one member exercising jurisdiction in accordance with section 7(3) shall make all such suggestions and do all such things as appear to be right and proper for reconciling the parties.

Conciliation.

(2) In any matter before the Court, the President, or in his absence the Vice-President, of the Court may, with a view to the settlement of a dispute by conciliation,

take steps or designate one or more members of the Court to take steps to secure such settlement, but if the conciliation fails to result in the settlement of the dispute, the member who took such steps shall not sit or continue to sit as a member exercising jurisdiction to hear and determine such a dispute.

Court may
regulate its
own
procedure.
[44 of 1978].

13. (1) Subject to this Act, the Court may, by Rules, regulate its practice and procedure for the hearing and determination of all matters before it.

(2) Matters which fall to be heard and determined by the Essential Services Division shall, once hearing has commenced, be heard from day to day, as far as possible, until hearing is completed.

(3) Judgment in a matter referred to in subsection (2) shall be delivered not later than thirty days from the date of completion of the hearing save in exceptional circumstances when judgment shall be delivered not later than twenty-one days after the end of the thirty-day period referred to herein in which case the nature of the exceptional circumstances which gave rise to the delay shall be indicated in the judgment.

Recovery of
compensation,
damages or
fines.

14. (1) On the expiration of the time fixed for compliance with an order or award for the payment of compensation, damages or fines, the amount thereof shall become due and payable and is recoverable in the manner provided by this section.

(2) Compensation, damages or fines are, upon a certificate issued by the Registrar stating that the amounts specified therein are due and payable under an order or award of the Court—

- (a) recoverable summarily as a civil debt; or
- (b) recoverable in the manner provided in subsection (3),

by the person for whose benefit the order or award for such compensation or damages was made or, in the case of an order for a fine, by the Registrar and the certificate of the Registrar under this subsection is conclusive evidence of the matters specified therein.

(3) Upon the filing of a certificate issued under subsection (2) in the Registry of the High Court of Justice, the order or award shall as from the date of filing be of the same force and effect and proceedings may be taken thereon and the order or award may be enforced as if it had been a judgment originally obtained or entered upon the date of filing in the High Court of Justice.

(4) The High Court of Justice shall have the same control and jurisdiction over the order or award as it has over the judgements given by itself, but in so far only as relates to execution.

(5) All costs and charges incurred under this section shall be recoverable in like manner as if included in the certificate.

(6) All fines recoverable by the Registrar under this section shall be paid into the Consolidated Fund.

15. An order or award in any matter referred to the Court for determination may be made operative from such date as the Court may consider fair and just having regard to all the circumstances of the case.

Order may be made retroactive.

16. (1) Where any question arises as to the interpretation of any order or award of the Court, the Minister or any party to the matter may apply to the Court for a decision on such question and the Court shall decide the matter either after hearing the parties or, without such hearing, where the consent of the parties has first been obtained. The decision of the Court shall be notified to the parties and

Interpretation of orders and of collective agreements.

shall be binding in the same manner as the decision on the original order or award.

(2) Where there is any question or difference as to the interpretation or application of the provisions of a registered collective agreement (within the meaning of Part 4) any employer or trade union having an interest in the matter or the Minister may make application to the Court for the determination of such question or difference.

(3) The decision of the Court on any matter before it under subsection (2) shall be binding on the parties thereto and is final.

Scope of
hearing by
Court.

17. The Court shall expeditiously hear, inquire into and investigate every dispute and all matters affecting the merits of such dispute before it and, without limiting the generality of the foregoing, shall in particular hear, receive and consider submissions, arguments and evidence made, presented or tendered (whether orally or in writing)—

- (a) by or on behalf of the employer concerned;
- (b) by the trade union concerned on behalf of the workers involved in the dispute;
- (c) in the name of the Attorney General, if he has intervened under section 20.

Appeal on
point of law.

18. (1) Subject to subsection (2), the hearing and determination of any proceedings before the Court, and an order or award or any finding or decision of the Court in any matter (including an order or award)—

- (a) shall not be challenged, appealed against, reviewed, quashed or called in question in any court on any account whatever; and
- (b) shall not be subject to prohibition, *mandamus* or injunction in any court on any account whatever.

(2) Subject to this Act, any party to a matter before the Court is entitled as of right to appeal to the Court of Appeal on any of the following grounds, but no other:

- (a) that the Court had no jurisdiction in the matter, but it shall not be competent for the Court of Appeal to entertain such ground of appeal, unless objection to the jurisdiction of the Court has been formally taken at some time during the progress of the matter before the making of the order or award;
- (b) that the Court has exceeded its jurisdiction in the matter;
- (c) that the order or award has been obtained by fraud;
- (d) that any finding or decision of the Court in any matter is erroneous in point of law; or
- (e) that some other specific illegality not mentioned above, and substantially affecting the merits of the matter, has been committed in the course of the proceedings.

(3) On the hearing of an appeal in any matter brought before it under this Act, the Court of Appeal shall have power—

- (a) if it appears to the Court of Appeal that a new hearing should be held, to set aside the order or award appealed against and order that a new hearing be held; or
- (b) to order a new hearing on any question without interfering with the finding or decision upon any other question,

and the Court of Appeal may make such final or other order as the circumstances of the matter may require.

(4) The Court of Appeal may in any matter brought on appeal before it, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred although it is of the opinion that any point raised in the appeal might have been decided in favour of the appellant.

19. (1) An order or award of the Court shall be binding on—

- (a) all parties to the dispute who appear or are represented before the Court;
- (b) all persons who have been summoned to appear as parties to the dispute, whether they have appeared or not;

On whom
award to be
binding.

- (c) in the case of employers, any successor to, or assignee of, the business of the employer who is a party bound by such order or award, including any company that has acquired, or taken over the business of such a party;
- (d) any trade union on whom such order or award is at any time declared by the Court to be binding, as well as on its successors; and
- (e) all workers belonging to a bargaining unit to which such order or award refers.

(2) The Court may, during the course of any dispute pending before it, direct that any successors to, or any assignees of, the business of the employer who is a party to the dispute shall be joined or substituted as a party to the dispute; and any order or award of the Court in such dispute (whenever made) shall, save to the extent that it is otherwise expressly provided in such order or award, be binding on the successors or assignees of that employer.

(3) For the purposes of this section, any question whether a person is the successor to, or an assignee of, another shall be determined by the Court from all the circumstances in accordance with good conscience and the principles of good industrial relations practice and shall be binding on the persons referred to in subsection (1) and is conclusive for all purposes connected with the order or award.

Intervention by
the Attorney
General.

20. (1) Where any dispute is before the Court, the Attorney General may, for the purpose of giving such assistance to the Court as he may be able to provide, intervene, whether at his own instance or at the invitation of the Court, and in particular, the Attorney General may intervene at his own instance in any dispute where it appears to him that some question of public importance or affecting the public interest or both has arisen and that it is fit and proper that the public interest should be represented therein.

(2) Upon any intervention by the Attorney General under subsection (1) it shall be open to him to submit that the Court, in addition to taking into account any submissions, arguments and evidence presented or tendered by or on behalf of the employers concerned and the workers concerned, be guided by the following considerations—

- (a) the necessity to maintain and expand the level of employment;

- (b) the necessity to ensure to workers a fair share of increases in productivity in enterprises;
 - (c) the necessity for the establishment and maintenance of reasonable differentials in rewards between different categories of skills;
 - (d) the necessity to maintain and improve the standard of living of workers;
 - (e) the necessity to preserve and promote the competitive position of products of Trinidad and Tobago in the domestic market as well as in overseas markets;
 - (f) the need to ensure the continued ability of the Government of Trinidad and Tobago to finance development programmes in the public sector,
- and the Court may take such matters into consideration.

(3) No intervention by the Attorney General shall be taken to cause the Attorney General to become a party to the dispute before the Court, and accordingly no order or award may be made against the Attorney General either in the matter or, subject to section 10(2), as to costs.

(4) Where the Attorney General intervenes in a dispute he may instruct such persons as he thinks fit to appear on his behalf, and any expenses thereby incurred shall be met out of the public funds of Trinidad and Tobago.

PART II

REGISTRATION RECOGNITION AND CERTIFICATION BOARD

Board Established

21. (1) For the purposes of this Act there is hereby established a Board to be known as the Registration Recognition and Certification Board.

Establishment
of Board.

(2) The Board shall consist of a Chairman and eight other members, and the Board shall exercise and perform such functions, duties and powers as are imposed or conferred upon it by this Act or any other written law.

(3) Subject to this Part, the Minister shall appoint the Chairman and other members of the Board as follows:

- (a) in the case of the Chairman, a fit and proper person selected by the President of Trinidad and Tobago after consultation with such organisations or other bodies of persons as in his opinion are the most representative of workers and employers; and
- (b) in the case of the other members of the Board—
 - (i) three members, being persons nominated by such organisations or other bodies of persons as in the opinion of the Minister are the most representative of workers;
 - (ii) three members, being persons nominated by such organisations or other bodies of persons as in the opinion of the Minister are the most representative of employers; and
 - (iii) two members, being persons jointly nominated by the organisations or other bodies of persons referred to in subparagraphs (i) and (ii).

(4) In respect of each member of the Board (other than the Chairman), the Minister shall in like manner appoint an alternate member, and any such alternate member may, with the approval of the Chairman, act in the stead of the respective member at any one or more meetings of the Board or in addition to such a member, where such member is elected Chairman under section 26(2).

(5) Where for any reason the Chairman is unable to carry out his functions under this Act, the President of Trinidad and Tobago may designate a fit and proper person to act in his place until the Chairman is again able to carry out such functions or until another person is appointed as Chairman.

(6) A member of the Board may at any time resign his office by instrument in writing addressed to the Chairman, who shall forthwith cause it to be forwarded to the Minister, and the Chairman may resign his office by instrument in writing addressed to the Minister.

(7) The appointment of any person as Chairman or other member of the Board and the termination of office of any person as such whether by death, resignation, revocation, effluxion of time or otherwise, shall be notified in the *Gazette*.

(8) Notwithstanding section 22(1), the Minister shall revoke the appointment of a member appointed under subsection

(3)(b)(i) and (ii) if the respective organisations mentioned therein nominate another person in the stead of such a member.

22. (1) The Chairman and other members of the Board shall be paid such salary and allowances as may be fixed by the President of Trinidad and Tobago and shall hold office for such period, being not more than five years, as is specified in their respective instruments of appointment, and are eligible for reappointment as such.

Salary, etc., and terms of office.

(2) There shall be a Secretary and other officers of the Board who shall be public officers.

Secretary of the Board.

23. (1) The Board shall be charged with responsibility for—

Duties of the Board.
[11 of 1975].

- (a) the determination of all applications, petitions and matters concerning certification of recognition under Part III, including the taking of preferential ballots under section 34(2);
- (b) the certification of recognised majority unions;
- (c) the recording of the certification of recognised majority unions in a book to be kept by it for the purpose;
- (d) the making of agency shop orders under Part VI and the conduct of ballots and proceedings in connection therewith;
- (e) the cancellation of certification of recognition of trade unions; and
- (f) such other matters as are referred or assigned to it by the Minister or under this or any written law.

(2) Every party to a matter before the Board shall be entitled to appear at the hearing thereof, 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 of recognition and questions as to the appropriateness of bargaining units brought

before the Board shall be determined by a majority of the members thereof sitting in accordance with the provisions of this Act and the regulations and any rules made by the Board under section 26(5).

(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 whatever; 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 Act, and in particular to section 31, the Board shall be the sole authority competent to expound upon any matter touching the interpretation and application of this Act relating to functions and responsibilities with which the Board is charged by the Act or any other written law; and accordingly, no cause, application, action, suit or other proceeding shall lie in any court of law concerning any matter touching the interpretation or application of this Act.

Powers of
Board.

Ch. 19:01.

24. (1) Subject to this section, 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 Act, to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise and to call for the production of documents; and that Act 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.

(2) 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.

Custody and
use of seal.

25. (1) The Board shall have a seal, which shall be kept in the custody either of the Chairman or of the Secretary, as the Board may determine, and may be affixed to instruments pursuant to rules made by the Board under section 26(5) or to a resolution of the Board, in the presence of the Chairman and of one other member, and the Secretary.

(2) The seal of the Board shall be attested by the signatures of the Chairman and the Secretary.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the Chairman or the Secretary.

(4) Service upon the Board of any notice, orders, or other document shall be effected by delivering the same or by sending it by registered post addressed to the Secretary at the office of the Board.

26. (1) The Board shall meet at such times as are necessary for the expeditious performance of its duties and the meetings shall be held at such place and times and on such days as the Board or the Chairman may determine.

Meetings of the Board.

(2) Where at any meeting of the Board the Chairman is for any reason unable to act as such, then, subject to section 21(5), the members of the Board present at the meeting may, notwithstanding the inability of the Chairman to act for such purpose or for any other purpose, elect one of the members of the Board appointed under section 21(3)(b)(iii) then present to act as Chairman, for the purpose of the conduct of the business of the Board on the agenda for such meeting, including any subsequent meeting to which the said business of the Board so conducted is adjourned.

(3) The Chairman, except in the case provided for in subsection (2), shall preside at all meetings of the Board but may only vote in the case of an equality of votes, when he shall exercise a casting vote; and any person presiding at a meeting pursuant to subsection (2) may himself only vote in the case of an equality of votes, when he shall exercise a casting vote.

(4) The quorum of the Board shall be the Chairman and five other members, and all matters before the Board shall be determined by a majority of the members of the Board present, and entitled (and not otherwise disqualified) to vote.

(5) Subject to this part, the Board may by rules published in the *Gazette* regulate its own procedure and may make rules providing for the form and manner in which matters may be brought before it and determined.

27. (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 by reason of—

Prohibition as to interest.

- (a) his holding office in, or being a member of, the claimant union or other union concerned in the matter; or
- (b) being the employer or a director, a shareholder, partner or manager of the business of the employer who is concerned in the matter,

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

(2) Nothing in subsection (1)(b) shall apply to any shareholder if the total value of his shareholding does not exceed such amount of the total nominal value of the issued share capital of the company as the rules of procedure of the Board provide.

(3) 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 subsections (1)(a) and (b), or any of them.

(4) Upon any such challenge being taken, it shall be the duty of the Chairman to inquire 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.

(5) 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 any occasion of the failure to comply with 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.

Power to enter premises.

28. (1) The Board or any authorised officer thereof may, on giving twenty-four hours notice in writing of an intention to do so, enter any premises for the purpose of conducting a ballot under Part III or Part VI.

(2) An authorised officer of the Board shall, on demand,

produce some duly authenticated document showing his authority to act in pursuance of subsection (1).

(3) Any person who hinders or molests or interferes with any member of the Board or any authorised officer thereof doing anything that he is authorised to do or prevents or attempts to prevent any such person from doing such thing, is liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

29. (1) The Board may appoint committees from amongst its members to examine and report to it on any matter whatsoever arising out of or connected with any of its powers and duties under this Act.

Appointment of committees.

(2) The Board may by resolution reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations, as the Board may think fit.

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

30. Subject to this Act and to the prior approval of the Minister, the Board may delegate to a committee consisting of the Chairman and at least two other members, one each representative of workers and employers, respectively, power and authority to carry out on its behalf such duties and functions and to exercise such powers as the Board may determine, but any such delegation shall be revocable at will and shall not preclude the Board from acting from time to time as occasion requires.

Power of Board to delegate.

31. (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.

Board may state case to 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.

PART III

CERTIFICATION OF RECOGNITION

Certification of
recognition—
application for.

32. (1) The Board shall expeditiously determine all applications for certification brought before it in accordance with the following provisions of this Part.

(2) Subject to this Act, all trade unions that desire to obtain certification of recognition under this Part shall apply to the Board in writing in accordance with this Part.

(3) An application under subsection (2) shall—

- (a) be in the prescribed form; and
- (b) describe the proposed bargaining unit in respect of which certification is sought,

and the union making the application (herein referred to as the “claimant union”) shall serve a copy of the application on the employer and the Minister.

(4) Subject to this Act, all determinations of applications for certification of recognition under this Part as well as determinations as to the appropriateness of a bargaining unit under section 33 and as to variations thereof under section 39 shall be final for all purposes.

Appropriate-
ness of
bargaining unit.
[11 of 1975].

33. (1) The Board shall on any application under section 32(2) 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 workers in the proposed bargaining unit, including work location and methods and periodicity of payment therefor;
- (b) the nature and scope of the duties exercised by the workers in the proposed bargaining unit;
- (c) the views of the employer and the trade union concerned as to the appropriateness of the bargaining unit;
- (d) the historical development, if any, of collective bargaining in the industry or business to which the proposed bargaining unit belongs;
- (e) any other matters the Board considers to be conducive to good industrial relations.

(2) In considering the appropriateness of a bargaining unit, the Board shall not be restricted by the terms of the application under section 32(3)(b) and may, notwithstanding such terms, determine the bargaining unit most appropriate for the workers of the employer in accordance with subsection (1).

(3) In the performance of its duties under this section the Board may, in its discretion, make an interim determination of a bargaining unit (which bargaining unit when so determined is hereinafter referred to as an "interim bargaining unit") in order to enable an interim certificate of recognition to be issued to a claimant union.

(4) In making any such determination the Board shall have regard to the question whether any decision it might arrive at to exclude any category of persons who were under consideration for inclusion in the proposed bargaining unit might materially affect the final determination of the appropriateness of the bargaining unit or the position of the claimant union in establishing or maintaining its majority status under section 34.

(5) Accordingly, except in the case of a reference to an application for certification of recognition, every reference in this Part to certification of recognition or to appropriate bargaining unit (however expressed) shall be construed as including a reference to interim certification of recognition or to an interim bargaining unit, as the case may be.

34. (1) Subject to this Act, the Board shall certify as the recognised majority union that trade union which it is satisfied has, on the relevant date, more than fifty per cent of the workers comprised in the appropriate bargaining unit as members in good standing.

The recognised majority union. [42 of 1972].

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

(3) All questions as to membership in good standing shall be determined by the Board, but a worker shall not be held to be a member in good standing, unless the Board is satisfied that—

(a) the union of which it is alleged the worker is a member in good standing has followed sound accounting procedures and practices;

- (b) the particular worker has—
 - (i) become a member of the union after having paid a reasonable sum by way of entrance fee and has actually paid reasonable sums by way of contributions for a continuous period of eight weeks immediately before the application was made or deemed to have been made; or
 - (ii) actually paid reasonable sums by way of contributions for a continuous period of not less than two years immediately before the application was made or deemed to have been made;
- (c) no part of the funds of the union of which it is alleged the worker is a member in good standing has been applied directly or indirectly in the payment of the entrance fee or contributions referred to in paragraph (b); and
- (d) the worker should be considered a member in good standing having regard to good industrial relations practice.

Effect of
certification.

35. Where a trade union is certified under this Part as the recognised majority union—

- (a) such trade union shall immediately replace any other trade union that immediately before the certification was the recognised majority union for the workers comprised in the bargaining unit and, subject to paragraph (c), shall have exclusive authority to bargain collectively on behalf of workers in the bargaining unit and to bind them by a collective agreement registered under Part IV so long as the certification remains in force;
- (b) if another trade union had previously been certified or was deemed to have been certified under section 86 in respect of workers comprised in the bargaining unit, the certification of the last mentioned trade union shall be deemed to be revoked in respect of the workers; and
- (c) if, at the time of certification, a collective agreement registered under Part IV or deemed to be so registered is in force, the trade union shall be substituted as a party to the agreement in place of the union that

was a party to the agreement on behalf of workers comprised in the bargaining unit.

36. (1) Nothing in this Part shall be construed so as to permit the certification of more than one trade union as the recognised majority union for workers comprised in a bargaining unit.

Construction of Part III.

(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.

37. (1) The Board shall issue a certificate under its seal to the union and to the employer in every case in which it certifies a trade union as the recognised majority union.

Issuance and contents of certificate. [11 of 1975].

(2) A certificate under subsection (1) shall contain a statement as to the following particulars—

- (a) the name of the employer and of the trade union thereby certified;
- (b) the category or categories, if any, of workers comprised in the bargaining unit;
- (c) the number of workers comprised in the bargaining unit at the relevant date;
- (d) such matters other than the foregoing as are prescribed.

(3) The Board may issue an interim certificate under its seal to the claimant union and to the employer in every case in which it certifies a trade union as the recognised majority union in respect of an interim bargaining unit.

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

Applications for certification—when entertained. [11 of 1975].

- (a) there is a recognised majority union for the same bargaining unit or any part thereof described in the application for certification; and
- (b) the application is made earlier than two years from the date on which the recognised majority union obtained certification as such, but an application may be made with leave of the Court although two years have not expired since the certification was obtained.

(2) Where a union desires to obtain leave of the Court for the purpose of 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 recognised majority union obtained certification as such, it shall grant leave accordingly.

(3) In determining whether good reasons exist under subsection (2), the question whether the union making the application before the Court has as members in good standing more than fifty per cent of the workers comprised in the bargaining unit for which the recognised majority union 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, and in particular to sections 85 and 86, no application for certification of recognition under this Part shall be considered where the application relates to workers comprised in a bargaining unit in one category of essential industries and the claimant union is already certified as the recognised majority union for workers comprised in a bargaining unit in another category of essential industries.

Where, however, the claimant union is, under or by virtue of sections 85 and 86, already certified as the recognised majority union for workers comprised in bargaining units in more than one category of essential industries, nothing in this subsection shall apply to any application for certification of recognition under this Part, if the application relates to workers comprised in a bargaining unit in any of those categories of essential industries for which the claimant union is already so certified.

(5) The President of Trinidad and Tobago may, subject to affirmative resolution of the House and the Senate, add to, vary or otherwise amend the First Schedule.

First Schedule.

(6) Subject to this Act, no application for certification of recognition under this Part may be made by a trade union earlier than six months from the date when application made by that union for certification 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.

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

39. (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 recognised majority union; or

(b) by the employer,

for variation of a bargaining unit; or

(c) by workers employed in the bargaining unit for which the union is certified for the exclusion from that bargaining unit of those workers or any of them, on the ground that it is no longer an appropriate bargaining unit in so far as it includes those workers or any of them; or

(d) by workers not so employed but employed by the same employer, for their inclusion in the bargaining unit for which the union is certified on the ground that it is an appropriate bargaining unit for the inclusion of those workers.

(3) The Board shall not entertain such a petition under subsection (2)(c) unless it is satisfied that not less than one-twentieth of the workers 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 section 33, on a petition under subsection (2) that workers should be excluded from, or included in, 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 41.

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

40. (1) Where a trade union obtains certification of recognition for workers comprised in a bargaining unit in accordance with this Part, the employer shall recognise that trade union as the recognised majority union; and the recognised majority union and employer shall, subject to this Act, in good faith, treat and enter into negotiations with each other for the purposes of collective bargaining.

Compulsory recognition and duty to treat.

(2) A recognised majority union or an employer that fails to comply with this section is guilty of an industrial relations offence and liable to a fine of four thousand dollars.

Recording of
certification—
effect of.

41. (1) Where a trade union is certified by the Board as the recognised majority union, the particulars referred to in section 37(2) shall be entered in a record of such trade unions 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 of the Board, 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, a recognised majority union shall, for the purposes of this Act, be treated as such only when such particulars are recorded under subsection (1) and, subject to section 35, as long as so recorded the trade union shall be deemed to continue always to be the recognised majority union.

Victimisation
for trade union
activities.

42. (1) An employer shall not dismiss a worker, or adversely affect his employment, or alter his position to his prejudice, by reason only of the circumstances that the worker—

- (a) is an officer, delegate or member of a trade union;
- (b) is entitled to the benefit of an order or award under this Act;
- (c) has appeared as a witness or has given any evidence in a proceeding under this Act; or
- (d) has absented himself from work without leave after he has made an application for leave for the purpose of carrying out his duties as an officer or delegate of a trade union and the leave has been unreasonably refused or withheld.

(2) An employer shall not—

- (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
- (b) dismiss or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours;
- (c) with intent to dissuade or prevent the worker from becoming such officer, delegate or member or from

so appearing or giving evidence, threaten to dismiss a worker, or to affect adversely his employment, or to alter his position to his prejudice by reason of the circumstance that the worker is, or proposes to become, an officer, delegate or member of a trade union or that the worker proposes to appear as a witness or to give evidence in any proceeding under this Act.

(3) An employer who contravenes subsection (1) or (2) is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for one year; and the Magistrate making the order for conviction may also order that the worker be reimbursed any wages lost by him and direct that, notwithstanding any rule of law to the contrary, the worker be reinstated in his former position or in a similar position.

(4) In any proceedings for an offence under subsection (3), if all the facts and circumstances constituting the offence other than any specific intent, are proved, the defendant may be convicted unless he proves that he did not have the specific intent in question.

(5) Subject to subsection (3), nothing in this section shall be construed so as to compel any employer, in the absence of agreement to the contrary, to pay or compensate any worker for any time not spent in performance of the duties of his employment.

PART IV

COLLECTIVE AGREEMENTS

43. (1) A collective agreement shall contain effective provisions concerning appropriate proceedings for avoiding and settling disputes and shall, subject to subsection (3), be for a term to be specified therein, being not less than three years or more than five years.

Collective
agreements.

(2) In addition to the requirements of subsection (1), every collective agreement shall contain a provision for the settlement of all differences between the parties thereto arising out of the interpretation, application, administration or alleged violation thereof. The terms for avoiding and settling disputes contained in any collective agreement deemed to have been registered under this Act by section 85(7) shall be read and construed so as to

contain a provision for the settlement of such differences by the Court.

(3) Where—

- (a) an undertaking to which a collective agreement relates is likely to cease operations within three years of the date of the agreement; or
- (b) a collective agreement contains special provisions which have been agreed upon subject to the condition that such provisions are to have effect for a period less than the duration of the collective agreement,

the Court, on being satisfied that special circumstances for so doing exist, may, subject to this Part, approve of the agreement being made effective for a period of less than three years.

(4) Subject to subsection (5), nothing in this section shall affect or be deemed to affect the validity of a collective agreement which is valid and subsisting immediately before the date of the coming into operation of this Act and registered under the former Act.

(5) The following terms in any collective agreement are void—

- (a) any provision that any benefits under the agreement are to apply only to members of a particular union;
- (b) any clause excluding or limiting the application of the provision of this Act or the agreement;
- (c) any clause specifying that the employer must employ only members of a particular union or must show any preference or favour regarding recruitment, offer of employment, re-trenchment or termination of employment, only to members of a particular union.

Notice of negotiations to be given to Minister.

44. (1) A recognised majority union or employer that proposes to initiate the negotiation of a collective agreement shall send to the Minister particulars of the several matters and things on which agreement is to be negotiated.

Agreement to be submitted to Minister.

(2) When in pursuance of negotiations referred to in subsection (1) agreement has been reached on all matters by the parties thereto, the collective agreement shall, upon execution thereof, be transmitted to the Minister together with a request by

the parties, or any of them, for the registration of the agreement by the Court.

45. (1) Upon the receipt of the collective agreement, the Minister shall consider such agreement and, whether or not he objects to its registration, shall within fourteen days, submit the same to the Court for registration, and the Court shall, subject to section 46, without delay register the agreement.

Procedure by
Minister on
receipt of
agreement.

(2) Where the Minister objects to the registration of the agreement, he shall, within the time limited by subsection (1), forward it to the Court and shall attach thereto a statement of his objections and any other observations he may consider appropriate to make thereon and serve a copy thereof on each of the parties thereto.

(3) Where the collective agreement is not submitted to the Court pursuant to subsections (1) and (2) within the time limited by subsection (1), either party to the agreement may submit the agreement to the Court for its registration.

(4) The grounds upon which the Minister may object to the registration of a collective agreement may include—

- (a) non-compliance with section 43(1) and (2);
- (b) that there is pending before the Board an application for certification with respect to the whole or any part of the bargaining unit to which the collective agreement relates; or
- (c) that there is pending before the Board a petition under section 39 for variation of the bargaining unit to which the collective agreement relates.

46. (1) The Court may with respect to a collective agreement submitted to it under section 45—

Registration of
collective
agreement.

- (a) register or refuse to register the agreement;
- (b) with the consent of the parties thereto, register the agreement with such amendments or modifications as it may consider necessary and proper;
- (c) subject to such terms and conditions as the Court may impose, refer it back to the parties thereto for further negotiation on matters on which there was a refusal to register; or
- (d) upon failure of the parties to reach an agreement under paragraph (c) register the agreement with such modifications as the Court may think just.

(2) The Court shall, where section 45(2) applies or where of its own motion it refuses to register a collective agreement under subsection (3), summon all the parties to the agreement and shall hear those parties.

(3) The Court may refuse to register a collective agreement if it upholds any objection of the Minister under section 45(4) or on any of the following grounds—

- (a) conflict with any provisions of the Constitution or with this Act or with any other law; or
- (b) except in the case of a supplemental agreement, that there is in force a registered agreement relating to part of or the same bargaining unit.

(4) Upon registration of a collective agreement the Court shall submit within seven days a copy of such registered agreement to the Minister and to the parties.

Enforceability
of registered
agreements.

47. (1) The terms and conditions of a collective agreement registered under section 46 (referred to in this Part as a “registered agreement”) shall be binding on the parties thereto and shall be directly enforceable, but only in the Court.

(2) The terms and conditions of a registered agreement shall, where applicable, be deemed to be terms and conditions of the individual contract of employment of the workers comprised from time to time in the bargaining unit to which the registered agreement relates.

(3) Registration of a collective agreement shall be deemed to constitute actual notice of all the provisions thereof.

Ch. 88:02.

(4) The foregoing provisions of this section shall have effect notwithstanding section 6 of the Trade Unions Act, or of any other rule of law to the contrary.

Parties to a
registered
agreement.

48. (1) For the purposes of section 47, the following persons shall be deemed to be the parties to a registered agreement—

- (a) the recognised majority union;
- (b) the employer who has entered into the registered agreement or on whose behalf and with whose concurrence the agreement has been entered into;
- (c) any successors to, or, in the case of an employer, assignees of, such employer or recognised majority union, as the case may be.

(2) Notwithstanding section 43(1) the terms and conditions of a registered agreement shall, in so far as they relate to procedures for avoiding and settling disputes, be deemed to continue to have full force and effect until another collective agreement between the parties or their successors or, in the case of an employer, assignees, as the case may be, has been registered.

(3) For the purposes of this section any question whether a person is a successor or assignee of another shall be determined by the Court from all the circumstances in accordance with good conscience and the principles of good industrial relations practice and shall be binding on the persons referred to in subsection (1) and is conclusive for all the purposes connected therewith.

49. (1) Notwithstanding section 43(1), but subject to subsection (2), a recognised majority union and an employer may enter into an agreement supplementary to a collective agreement (herein called a "supplemental agreement") to make provision for matters not dealt with in the existing provisions of the collective agreement.

Supplemental
agreements.

(2) Section 43(5) and sections 44 and 48 (inclusive) shall apply to any supplemental agreement entered into under this section.

(3) Any supplemental agreement entered into under this section and registered under section 46 shall be read and construed as one with the collective agreement to which it relates and shall have the same effect in all aspects as that collective agreement.

50. An application may be made to the Court by either of the parties to a registered agreement to amend such an agreement for the following purposes only—

Amendments to
registered
agreements.

- (a) the correction of any patent error or ambiguity occurring in the registered agreement;
- (b) the inclusion of any matter, agreed upon at the time of the negotiation of the agreement, but inadvertently omitted therefrom;
- (c) the deletion of any matter contained in the agreement, not agreed to at the time of the negotiation of the registered agreement, but inadvertently included therein.

PART V

DISPUTES PROCEDURE

Reporting of
trade disputes.

51. (1) Subject to this section, any trade dispute, not otherwise determined or resolved may be reported to the Minister only by—

- (a) the employer;
- (b) the recognised majority union;
- (c) where there is no recognised majority union any trade union, of which the worker or workers who are parties to the dispute are members in good standing,

and, subject to sections 11(b) and 19, such persons only shall for all the purposes of this Act be treated, respectively, as parties to a dispute; and the Minister shall acknowledge receipt of any such report and deal with it in accordance with this Act and the regulations.

(2) All disputes in essential services shall be reported to the Minister by the parties thereto, determined in accordance with subsection (1); and, thereupon, this Part shall apply thereto, but subject always to section 59(5).

(3) A trade dispute may not be reported to the Minister if more than six months have elapsed since the issue giving rise to the dispute first arose, save that the Minister may, in any case where he considers it just, extend the time during which a dispute may be so reported to him.

(4) For the purpose of the exercise of his discretion to extend the time during which a dispute may be reported to him under subsection (3), the Minister may refer to the Court any question arising on the exercise of such discretion for its recommendation and advice.

(5) For the purpose of this Act and in particular subsection (1)(c), a trade union other than a recognised majority union, is competent to pursue the following types of trade dispute, but no other, in accordance with this Act—

- (a) any dispute or difference between the employer and the union or between workers and workers of that employer, in each case being on behalf of members of the union, concerning the application to any such worker of existing terms and conditions of employment or the denial of any right applicable to any such worker in respect of the employment; and

- (b) a dispute between the employer and the union as to dismissal, employment, non-employment, suspension from employment, refusal to employ, re-employment or reinstatement of a worker or workers.

(6) For the purposes of this Part the Minister may refer to the Board for its determination any question whether a person is a member in good standing of the union, and the Board shall determine the question in accordance with section 34(3); and a certificate of its determination shall be conclusive for all purposes.

52. (1) A report of a trade dispute shall be made in writing and shall specify the following matters—

Contents of report.

- (a) the parties to the dispute;
- (b) the address of the principal place of business of each of the parties;
- (c) particulars of the dispute stating in general terms the nature and scope of the dispute; and
- (d) what steps, if any, have been taken for the settlement of the dispute either in accordance with a collective agreement registered under Part IV, or otherwise.

(2) Every party reporting a trade dispute shall immediately furnish by hand or by registered post a copy of the report to the other party or parties to the dispute by leaving the same at, or addressing the same to, the principal place of business of the other party.

Notice of report of dispute.

53. (1) Where a dispute is reported to the Minister under section 51, the Minister may in writing—

Powers of the Minister on a report.

- (a) in any case request further particulars of any of the matters to be specified under section 52(1);
- (b) insofar as suitable procedures for settling disputes exist between the parties and have not been followed, refer the dispute back to the parties for such procedures to be followed.

(2) Particulars supplied in pursuance of a request by the Minister under subsection (1)(a) shall be subject to section 52(2) and shall be read as one with the matters reported under section 52(1).

(3) Where the Minister makes a request for further particulars under subsection (1)(a), the dispute shall be treated as reported to the Minister only on the date on which such particulars were supplied to the Minister.

(4) A dispute referred to the parties in pursuance of subsection (1)(b) shall be deemed not to have been reported to the Minister, and shall be treated as reported to the Minister only on the date when the parties or either of them report that the dispute still exists and the Minister is satisfied that, subject to subsection (5), such suitable procedures as may exist for settling disputes have been followed.

(5) Where the Minister is satisfied that either of the parties to a dispute reported under section 51 refuses to follow such suitable procedures for settling the dispute as may exist, after the dispute was referred to them under subsection (1)(b), he shall so state in writing to the parties, and thereupon section 56(2) shall apply as if the Minister had intervened in the dispute under that section.

Referral of questions as to nature of disputes to the Court.

54. (1) Where there is any question or difference between an employer and a trade union as to whether a dispute that has been reported is—

- (a) one that concerns the application to any worker of that employer of existing terms and conditions of employment or the denial of any right applicable to the worker in respect of such employment; or
- (b) one that concerns the dismissal, employment, non-employment, suspension from employment, refusal to employ, re-employment or reinstatement of any worker of that employer,

either party or the Minister may make application to the Court for the determination thereof and the Court may determine the matter in a summary manner, whether or not by way of hearing witnesses in the matter.

(2) The decision of the Court on any question before it under subsection (1) shall be binding on the parties to the question and is final.

(3) Where a matter is determined by the Court under subsection (1), the dispute shall be deemed to have been first reported to the Minister on the date when the decision of the Court on the question is given.

55. (1) The Minister shall as soon as possible after a trade dispute has been reported or deemed to have been reported to him take such steps as he may consider advisable to secure within fourteen days next after the date of the report, a settlement of the dispute by means of conciliation.

Action on
report by
Minister.

(2) The parties to a dispute that has been reported to the Minister may agree in writing to extend the time, specified in subsection (1) (including any further extension of time under this subsection), within which the Minister may take steps to secure a settlement of the dispute by means of conciliation.

(3) Where in pursuance of subsection (2) the parties to a dispute agree to extend the time within which the Minister may take steps to secure by means of conciliation a settlement of the dispute, the Minister may continue to take steps so as to secure a settlement of the dispute.

(4) Notwithstanding this Part, where the Minister is satisfied that no useful purpose would be served by continuing to conciliate under this section, he may certify that the dispute is an unresolved dispute pursuant to section 59(1).

(5) Where the Minister is satisfied that either party to a dispute that has been reported to him refuses to enter into conciliation under this section in good faith or to carry out any request of the Minister under section 53(1) the Minister may, notwithstanding any provision of this Part to the contrary, certify the dispute as an unresolved dispute under section 59 and refer the matter to the Court.

56. (1) Notwithstanding sections 51 to 55 (inclusive), the Minister may intervene in any dispute at any time before a report is made or deemed to have been made for the purpose of advising the parties thereto and of conciliation with a view to the settlement thereof.

Intervention by
Minister.

(2) Where the Minister intervenes in a dispute in pursuance of subsection (1), he shall so advise the parties to the dispute expressly in writing and such a dispute shall be deemed to have been reported pursuant to section 51(1), notwithstanding section 51(3).

57. Where under the foregoing provisions of this Part more than one date is to be deemed to be the date when a dispute is first reported to the Minister, the date on which the report shall be considered to have been so made to the Minister shall be the date which is last in point of time.

Date of report
in certain cases.

Resolved
dispute.

58. (1) Where a dispute has been determined or resolved (either before or after conciliation by the Minister), the parties shall prepare a memorandum of agreement setting out the terms upon which the agreement was reached and either party may present the memorandum to the Minister with a request that it be forwarded to the Court under this section.

(2) Upon receipt of the memorandum referred to in subsection (1), the Minister shall forward it to the Court and the Registrar shall enter the memorandum of agreement as if it was an order or award of the Court and when so entered the memorandum shall have the same force and effect and all proceedings may be taken thereon as upon an order or award of the Court.

Unresolved
disputes.

59. (1) A dispute, reported pursuant to section 51(1) or deemed to have been so reported under this Part, that remains unresolved after the time within which the Minister may take steps by means of conciliation to secure a settlement thereof, including any extension of such time under section 55(2), has expired, shall be so certified in writing by the Minister (referred to in this Part as an "unresolved dispute") and notice thereof served on the parties to the dispute and the Minister may also state any reasons which in his opinion have prevented a settlement.

(2) Where the unresolved dispute concerns the application to any worker of existing terms and conditions of employment or the denial of any right applicable to any worker in respect of his employment or the dismissal, employment, non-employment, suspension from employment, refusal to employ, re-employment or reinstatement of any worker, either party to the dispute may make application to, or the Minister may refer the matter to, the Court for the determination of the dispute.

(3) Where the unresolved dispute is between the employer and the recognised majority union concerning matters, other than those referred to in subsection (2), the dispute may be dealt with in the following manner—

- (a) where both parties request him to do so, the Minister may refer the dispute to the Court for the determination thereof; or
- (b) either or both of the parties may, subject to this Act, take action by way of strike or lockout in accordance with this Part.

(4) Nothing in this section shall be construed so as to permit—

- (a) a union, other than a recognised majority union, to take action by way of strike; or
- (b) an employer to take lockout action in relation to a dispute with his workers who are not represented by a recognised majority union for a bargaining unit of that employer.

(5) Nothing in subsections (2) to (4) shall apply in the case of any unresolved dispute in an essential service between an employer and any trade union, and every such unresolved dispute shall be referred by the Minister to the Court for settlement.

60. (1) Subject to this section and section 59, where there is an unresolved dispute between the employer and the recognised majority union the employer or recognised majority union may take action by way of lockout or strike.

Strike or
lockout action
procedures.

(2) Where, at any time after a dispute has been reported to the Minister or is deemed to have been so reported, an employer or the recognised majority union intends to take any action referred to in subsection (1), notice of the intention (hereinafter called “lockout notice” or “strike notice”, respectively) shall be given to the other party and to the Minister except that any other notice of an intention to take action by way of lockout or strike given before the dispute was first reported to the Minister, or is deemed to have been so reported, as determined *inter alia* by section 57, is void.

(3) No action in pursuance of a lockout notice or strike notice may be taken at any time before the Minister is required to certify under section 59 that the dispute is an unresolved dispute.

(4) No action in pursuance of a lockout notice or strike notice may be taken—

- (a) later than seven days after the date on which the Minister is required to certify under section 59 that the dispute is an unresolved dispute; or
- (b) after both parties in pursuance of section 59(3)(a) have requested the Minister to refer the dispute to the Court.

(5) Where one party to a dispute gives lockout notice or strike notice, as the case may be, in conformity with this Part, the other party thereto may, subject to this Part and in particular to

subsections (3) and (4)(a), take strike or lockout action, respectively, without notice thereof to the other party.

Referral to
Court.

61. The Minister shall refer an unresolved dispute to the Court—

- (a) where no lockout notice or strike notice is given pursuant to section 60;
- (b) where no action in pursuance of a lockout notice or strike notice was commenced before the expiration of seven days from the date on which the Minister was required to certify under section 59 that the dispute is an unresolved dispute;
- (c) where, after action in pursuance of a lockout notice or strike notice was taken, there is a joint request to the Minister by the employer and the recognised majority union for referral of the unresolved dispute to the Court.

Strike and
lockout action
in conformity
with this Part.

62. (1) Where action in pursuance of lockout notice or strike notice takes place in conformity with this Part—

- (a) the provisions of a registered agreement (within the meaning of Part IV) if any, between the parties, shall not be taken to have been infringed, abrogated or otherwise set aside by reason only of such action; and
- (b) the contract of employment with respect to every worker employed in the bargaining unit concerned shall not, by reason only of the taking of such action, be deemed to have been determined.

(2) Nothing in subsection (1) shall be construed as imposing on an employer any obligation to pay for any services of a worker that are withheld as a result of strike action taken in conformity with this Part.

Industrial
action not in
conformity with
this Part.

63. (1) Where any industrial action is taken otherwise than in conformity with this Part—

- (a) an employer taking such action is guilty of an industrial relations offence and, in addition to any other penalty under subsection (2), remains liable for the unpaid wages, salary and other remuneration that a worker may reasonably be expected to obtain in respect of any period during which the lockout action took place; and a worker may recover such

wages, salary or other remuneration summarily as a civil debt, without prejudice to any other manner in which proceedings may be taken for the recovery thereof;

- (b) a trade union taking such action is guilty of an industrial relations offence and, in addition to any other penalty under subsection (2), the Court may order the cancellation of its certificate of recognition, if any;
- (c) subject to sections 64 and 65(2)(b), where a worker takes part in such action the employer may treat the action as a fundamental breach of contract going to the root of the contract of employment of the worker.

(2) A person guilty of an industrial relations offence under this section is liable—

- (a) in the case of an employer, to a fine of twenty thousand dollars; or
- (b) in the case of a trade union, to a fine of ten thousand dollars.

64. (1) Where a worker is, pursuant to section 63(1)(c), dismissed by his employer, or his contract of employment is determined, the recognised majority union or, in the absence of such a union, any trade union, of which the worker is a member, may within fourteen days apply to the Court for an order that the worker is to be treated as having been excused from the consequences of such action as is referred to in section 63(1)(c) and from the operation of section 63(1)(c) and accordingly that the exercise of the power of dismissal or the termination of the contract of employment shall be set aside.

Application to the Court to avoid rescission of contract.

(2) The Court may upon such application make the order, if it is satisfied that the industrial action by the worker was caused by exceptional circumstances and that it is otherwise fair and just to excuse the worker from the consequences of such action and from the operation of section 63(1)(c).

65. (1) Where industrial action is threatened or taken, whether in conformity with this Act or otherwise, and the Minister considers that the national interest is threatened or affected thereby, he may make application to the Court *ex parte* for an injunction restraining the parties from commencing or from continuing the

Stop order in the national interest.

action; and the Court may make such order thereon as it considers fit having regard to the national interest.

(2) Where the Court upon such an application makes an order under subsection (1), then—

(a) the parties bound by the order shall thereupon refrain from, or discontinue, the industrial action; and

(b) unless the Court otherwise specifically orders, nothing in section 63(1)(c) shall apply to any worker involved in the industrial action,

and the Court may further order that the matter shall be deemed to have been referred to the Court by the parties thereto for determination.

(3) An order made by the Court under subsection (1) shall be published in the *Gazette* and in at least one daily newspaper circulating in Trinidad and Tobago and the publication shall be deemed to be service of notice thereof on all parties to the dispute, including all workers engaged in the industrial action, whether threatened or taking place.

(4) Subject to this section, no order of the Court made under subsection (1) shall be deemed to have validated any action taken if the action was not otherwise in conformity with this Part.

Industrial
action
prohibited
during hearing,
etc.

66. (1) No party to a dispute may continue, or take, industrial action while proceedings in relation to a dispute to which that action relates are pending before the Court or the Court of Appeal.

(2) No person may take industrial action as a result of disagreement or dissatisfaction with, an order or award of the Court or the Court of Appeal.

(3) A person who contravenes this section is guilty of a contempt of the Court or of the Court of Appeal, as the case may be.

Industrial
action in
essential
services,
prohibited.

67. (1) This section shall be read and construed without prejudice to sections 63 and 64, and a reference in those sections and in this section and section 68 to the term “workers” shall be read as a reference to all employees engaged in essential services.

(2) An employer or a worker carrying on or engaged in an essential service shall not take industrial action in connection with any such essential service.

(3) An employer who contravenes subsection (2) is liable on summary conviction to a fine of forty thousand dollars and to imprisonment for three years.

(4) A worker who contravenes subsection (2) is liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

(5) A trade union or other organisation, the holder of an office in a trade union or other organisation or any other person who calls for, or causes industrial action to be taken in, an essential service or induces or persuades any worker in that service to take such action is liable on summary conviction—

(a) in the case of a trade union or other organisation to a fine of twenty thousand dollars, and the Board may cancel the certificate of recognition under Part III;

(b) in the case of the holder of an office in a trade union or other organisation to a fine of ten thousand dollars and to imprisonment for twelve months, and such person shall be disqualified from holding office in any trade union or other organisation for a period of five years after conviction therefor; or

(c) in the case of an individual who is not the holder of an office in a trade union or other organisation to a fine of two thousand dollars and to imprisonment for two years.

(6) The President of Trinidad and Tobago may by order, subject to negative resolution of both Houses of Parliament, vary the Second Schedule by adding thereto or removing therefrom any service.

Second
Schedule.

68. (1) A person who, for the purpose of promoting or maintaining the conduct of industrial action taken or continued in an essential service contrary to this Act, directly or indirectly contributes financial assistance to an employer or a trade union that calls for or causes such action to be taken or to any worker involved in such action, is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for eighteen months.

Offence for
persons to
contribute
financial
assistance to
promote or
support
industrial
action.

(2) An employer or a trade union or other organisation that receives any financial assistance for the purpose of supporting industrial action taken or continued in an essential service contrary to this Act is liable on summary conviction to a fine of ten thousand dollars or in the case of the holder of an office in a trade

union to a fine of five thousand dollars and to imprisonment for one year.

(3) A worker or other person who receives financial assistance for the purpose of supporting industrial action taken or continued in an essential service contrary to this Act is liable on summary conviction to a fine of five hundred dollars and three months' imprisonment.

Persons prohibited from taking industrial action.

69. (1) The following persons shall not take part in any industrial action—

- (a) members of the Public Service in Trinidad and Tobago;
- (b) members of the Prison Service of Trinidad and Tobago;
- (c) members of the Fire Service of Trinidad and Tobago;
- (d) members of the Teaching Service; and
- (e) members of the staff and other employees of the Central Bank, established by the Central Bank Act.

Ch. 79:02.

(2) A person mentioned in subsection (1) who contravenes the provisions thereof is liable on summary conviction to a fine of five hundred dollars and to imprisonment for three months.

(3) The holder of an office in a trade union or in an organisation of persons mentioned in subsection (1) who calls for or causes industrial action to be taken or any person or organisation who induces or persuades any other person to take such action in any of the Services mentioned in subsection (1) is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for eighteen months.

(4) Section 3 of the Constitution shall have effect for the purpose of the definition of any of the Services referred to in subsection (1) (other than in paragraph (e) thereof).

Liability of officers of companies.

70. Where an offence punishable under this Act has been committed by a company, any person who at the time of the commission of the offence was a director, general manager, secretary or any other employee of the company, not being a worker, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the contravention was committed without his consent or connivance and that he

exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

PART VI

MISCELLANEOUS AND GENERAL

Agency Shop Orders

71. Every worker as between himself, his employer and co-workers shall have the following rights, that is to say—

Rights of workers in respect of trade union membership and activities.

- (a) the right to be a member of any trade union or any number of trade unions of his choice;
- (b) the right not to be a member of any trade union or other organisation of workers or to refuse to be a member of any particular trade union or other organisation of workers;
- (c) where he is a member of a trade union, the right, subject to this Act, to take part in the activities of the trade union (including any activities as, or with a view to becoming an official of the trade union) and (if appointed or elected) to hold office as such an official.

72. In this Part—

Definitions relating to agency shop orders.

“agency shop order” means an order made by the Board and binding on an employer, the recognised majority union and the workers in the bargaining unit, whereby it is directed in respect of all workers from time to time comprised in the bargaining unit for which the union is certified, that the terms and conditions of employment of those workers shall include a condition that every such worker must pay contribution in accordance with this Part;

“contribution” means the total amount of money specified as being deductible under section 73(6)(b) and includes any increase in that amount by way of variation of the agency shop order under section 75(3);

“union’s apportionment” means that portion of the contribution that is payable to the union in any event in accordance with section 74(3), that is to say fifty per cent of the contribution.

Agency shop
orders.

73. (1) Subject to this Part, a recognised majority union may at any time apply to the Board for an agency shop order, and the application shall state—

- (a) the name and address of the union and of the employer;
- (b) the bargaining unit in respect of which the agency shop order is sought;
- (c) the constitution of the union and in particular the provisions thereof relating to the levying, imposing or payment of dues, subscriptions or levies; and
- (d) the amount of money payable by members of the union for dues, subscriptions and levies, and the times at which those amounts become due and payable.

(2) A copy of an application under subsection (1) shall be served by the union on the employer within twenty-four hours of the making thereof.

(3) Where the Board is satisfied that it is proper to make an agency shop order it shall first make a provisional order for the purpose.

(4) For the purposes of subsection (3), in considering whether to entertain an application, the Board shall have regard generally to all the circumstances surrounding the application and in particular to—

- (a) the admission, subscription and other dues or levies authorised by the rules of the union and the times at which those amounts become due and payable;
- (b) the constitution of the union, with particular reference to the circumstances in which a member may be excused from the payment of dues; and
- (c) the circumstances in which a person may join the union and resign from it.

(5) The Board shall not make a provisional order unless it is satisfied that—

- (a) the holders of offices in the union are elected and removable by simple majority in a democratic manner; and
- (b) that any power to waive the payment of dues payable by the rules of the union is limited to cases of genuine hardship and in accordance with good industrial relations practice.

(6) Where a provisional order is made the order shall state—

- (a) the name and address of the union and the employer;
- (b) the total amount deductible either weekly, fortnightly or monthly, as the case may be;
- (c) the union's apportionment;
- (d) the amount payable under section 74(5) in the absence of an authorisation by a worker to pay the union under section 74(4), being specified as fifty per cent of the contribution.

(7) Where the Board makes a provisional order, it shall, within twenty-eight days of the making thereof, proceed to take a ballot to determine the number of workers comprised in the bargaining unit for which the union is certified who are in favour of the making of a final order on the relevant date determined in accordance with section 36(2).

(8) Where two-thirds or more of the workers comprised in the bargaining unit for which the union is certified vote in favour of the making of a final order the Board shall confirm the provisional order in terms and thereupon the agency shop order shall enter into force, and otherwise the provisional order shall be cancelled.

(9) An agency shop order shall include the matters required by subsection (6) to be stated in a provisional order and shall be issued under the seal of the Board.

(10) No application may be made by a recognised majority union less than two years after the date on which an application under this section was last made with respect to the same bargaining unit or part thereof by that union.

74. (1) Where the Board makes an agency shop order upon an application under section 73(1)—

Effect of agency shop order.

- (a) the employer shall comply with the terms and conditions thereof; and
- (b) all workers comprised in the bargaining unit for which the union is certified shall pay the sum specified in the order and in the manner therein provided.

(2) Where an agency shop order is made the employer shall, notwithstanding any rule of law to the contrary but subject

to this Part, deduct the contribution required by the agency shop order to be deducted.

(3) The employer shall, in any event, pay over to the recognised majority union the union's apportionment, that is to say, fifty per cent of the amount of the contribution.

(4) Any worker comprised in the bargaining unit for which the union is certified may on the prescribed form authorise the employer to pay to the recognised majority union the whole of the contribution and the employer shall pay over that amount accordingly.

Ch. 39:51.

(5) Where no authorisation is given to an employer pursuant to subsection (4), the remainder of the contribution shall be paid to the Cipriani Labour College established under the Cipriani Labour College Act, save that the worker may stipulate in writing that the remainder of the contribution shall be paid to a Fund to be called the Industrial Relations Charitable Fund for the use of institutions or organisations for the physically and mentally handicapped, which Fund is hereby established.

(6) The Fund shall be kept by the Board in a special account with a bank or banks carrying on business in Trinidad and Tobago and shall be administered by the Board.

Ch. 69:01.

(7) The accounts of the Fund shall be audited annually by the Auditor General in accordance with Part V of the Exchequer and Audit Act as if the Fund was established under section 43 of that Act.

(8) Where an employer deducts and pays over any contribution in accordance with this section, he shall, as against the worker concerned or any other person who may have become entitled thereto, be acquitted or discharged of so much money as is represented by the full amount of the contribution as if that sum had actually been paid to the worker or other person who may have become entitled thereto.

(9) An employer who fails to comply with the terms and conditions of an agency shop order or with any of the foregoing provisions of this section is liable on summary conviction to a fine of two thousand dollars or to imprisonment for six months and in the case of a continuing offence to a further fine of two hundred dollars for each day on which the offence continues after conviction therefor.

75. (1) An agency shop order shall be deemed to be void where the record of certification of the recognised majority union in respect of which it was made is deemed to have been revoked or is cancelled, and any other trade union that is certified as the recognised majority union with respect to the same bargaining unit may apply for the establishment of an agency shop order for the workers comprised in that bargaining unit.

Additional provisions as to agency shop orders.

(2) Where an agency shop order is in force the recognised majority union shall represent every worker comprised in the bargaining unit for which it is certified in any dispute in which the worker is concerned and the recognised majority union may not refuse so to represent a worker by reason only of the fact that the worker is not a member of the union; and if a recognised majority union fails so to represent workers comprised in the bargaining unit for which it is certified the order may, on the application to the Board of any worker thereby aggrieved, be rescinded by the Board.

(3) Where an agency shop order is in force a recognised majority union may at any time, not being earlier than two years after the making of the order, apply to the Board for the variation of the order by way of an increase in the amount of the contribution and, subject to subsection (4), the Board may order the variation of the agency shop order by way of such an increase in the amount of the contributions as it may determine.

(4) In considering an application under subsection (3) the Board shall have regard to—

- (a) any variation in the circumstances surrounding the affairs of the union or the undertaking concerned or both, occurring since the making of the agency shop order; and
- (b) any increase in the cost of representation of the workers comprised in the bargaining unit for which the union is certified, if it is satisfied that the increase is justifiable,

and the Board shall take a ballot among the workers comprised in the bargaining unit for which the union is certified in order to determine whether those workers are in favour of the proposed increase. Where two-thirds of the workers comprised in the bargaining unit vote in favour of the increase, the Board shall make the variation accordingly save that, in any other case the application shall be refused.

Applications in restraint of agency shop orders and general restrictions thereon.

76. (1) Subject to this section, at any time when an agency shop order is in force, being not earlier than two years from the date of the making of an agency shop order, any worker comprised in the bargaining unit for which the union is certified may make an application to the Board under this section for the rescission of the Order made under this Part.

(2) The Board shall not entertain such an application under subsection (1) unless it is satisfied that not less than twenty per cent of the workers comprised in the bargaining unit for which the union is certified have signified in writing their concurrence in the application.

(3) Where an application for an agency shop order is entertained the Board shall as soon as possible proceed to take a ballot in order to determine the number of persons in the bargaining unit who are in favour of the application.

(4) Where a majority of the workers comprised in the bargaining unit do not vote in favour of the application the Board shall not rescind the agency shop order to which the application relates and thereupon the application shall be refused.

(5) No application may be made to the Board under this section less than two years after the last application under this section was made with respect to the same agency shop order.

Miscellaneous

Fraudulent medical certificates.

77. (1) A worker who by deception absents himself from his employment is liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months.

(2) A medical practitioner who issues a medical certificate to any worker for the purpose of enabling the worker by deception to absent himself from his employment by means of the certificate is liable on summary conviction to a fine of two thousand dollars or to imprisonment for twelve months.

(3) For the purposes of this section a medical practitioner may be held to be guilty of an offence although the worker was not convicted of or did not commit the offence under subsection (1), if, but only if, from all the circumstances of the case the medical practitioner may reasonably be considered to have acted for such purpose as is specified in subsection (2).

(4) In any prosecution for an offence under subsection (2)—

- (a) it shall be competent for the prosecution to adduce evidence of all the surrounding circumstances of the case, including the existence of other medical certificates of the medical practitioner issued allegedly for the purpose of enabling the worker or co-workers of the worker in question by deception to absent himself or themselves, respectively, from his or their employment by means of such certificates; and such evidence shall be admissible notwithstanding any rule of law to the contrary;
- (b) it shall be a defence for a medical practitioner to prove that he did not know and had no reasonable cause to believe that the medical certificate would be used for the purpose of enabling the worker by deception to absent himself from his employment by means of the certificate.

(5) In this section—

“medical practitioner” means a person registered under the Medical Board Act; Ch. 29:50.

“medical certificate” means a document of a medical practitioner certifying that a person is suffering from physical, mental, nervous or other illness, and recommending or purporting to recommend that some period of time should be spent away from work on account of the illness;

“deception” means the fraudulent or deceitful use of a medical certificate.

78. A prosecution for any contravention of sections 67 to 69 and section 77 shall not be instituted save by or with the consent of the Director of Public Prosecutions.

Prosecution
with consent of
Director of
Public
Prosecutions.

79. (1) The President of Trinidad and Tobago may make such Regulations as he considers necessary or expedient for the execution of this Act, and in particular for prescribing anything by this Act required or authorised to be prescribed.

Regulations.

(2) Regulations made by the President of Trinidad and Tobago under this section shall be subject to negative resolution of the Senate and the House of Representatives.

(3) The Regulations may contain provisions for imposing on any person contravening the Regulations or the Rules made

thereunder a fine on summary conviction of ten thousand dollars in respect of such offence, and in the case of a continuing offence, a further fine of two hundred dollars for each day during which the offence continues after conviction therefor.

Establishment
of Industrial
Relations
Advisory
Committee.

80. (1) There is hereby established an Industrial Relations Advisory Committee (herein referred to as “the Advisory Committee”) for the purpose of advising the Minister on any matter relating to industrial relations on which the Minister requests advice and for the purpose of performing the duties referred to in section 81.

(2) The Advisory Committee shall comprise a Chairman, and such other members as the President of Trinidad and Tobago may determine, appointed from among persons representing—

- (a) Workers’ Organisations;
- (b) Employers’ Organisations;
- (c) public officers; and
- (d) such other persons as he considers fit.

(3) Appointment as a member of the Advisory Committee shall be published in the *Gazette* and shall be for such period as is specified in the instrument of appointment.

Functions of
Advisory
Committee.

81. It shall be the duty of the Advisory Committee to keep this Act under review with a view to ensuring its development and reform, including in particular the modification of any of the provisions thereof and the elimination of anomalies, and for that purpose to prepare and submit to the Minister, from time to time, specific proposals for changes therein.

Economic and
industrial
research.

82. (1) For the purposes of this Act, there may be established an Office of Economic and Industrial Research.

(2) The functions of the office shall be—

- (a) to collect and compile in accordance with the directions of the Court, information which may be of assistance to the Court in the exercise of its powers and functions under this Act;
- (b) to keep information as collected and compiled up to date; and
- (c) to carry out research in respect of such matters as the Court may direct.

(3) Information collected and compiled and the results of research carried out, under this section shall be furnished to any person, trade union or other organisation desiring to obtain that information or those results.

83. The President of the Court and the Chairman of the Board shall each, once in each year furnish to the Minister, for presentation to Parliament, a report on the working of so much of this Act as falls within the purview of the Court or of the Board, respectively, as well as of so much of this Act (not directly falling within their purview) as may conveniently be dealt with in the respective reports, including in particular, the extent to which the objects of this Act have been achieved. Annual reports.

84. (1) All proceedings for the obtaining of an Order against any person in respect of an industrial relations offence shall be instituted by an application to the Court by the employer, the recognised majority union concerned, if any, or, where there is no such union, any union which, at the time of the commission of the industrial relations offence had as members of that union workers employed by the employer. Industrial relations offences—procedure.

(2) An application under subsection (1) shall be made within three months from the time when the industrial relations offence took place, and not after.

(3) All penalties for industrial relations offences recovered under this Act shall be paid into the Consolidated Fund.

Application of Former Act and Savings

85. (1) Subject to this section, the former Act shall continue to apply— Application of former Act.

- (a) in relation to matters pending before the Court established by that Act, as well as to matters on appeal therefrom to the Court of Appeal under that Act;
- (b) in relation to appointments and designations made, notices given, documents delivered, decisions and determinations made (including orders or awards of the Court established under the former Act) and, subject to subsection (7),

and to section 86, other things done under the former Act,

as if this Act had not been passed.

Ch. 3:01.

(2) Without prejudice to the operation of section 36 of the Interpretation Act, section 28(3)(b) of that Act shall have effect for the purpose of the operation of any unrepealed or unrevoked written law in which any reference is made to the former Act as if this Act was the revision or consolidation of the former Act.

(3) Sections 7(2) to (9) and section 12 shall have effect for the purpose of subsection (1)(a) as if those sections formed part of the former Act.

(4) All claims for or differences as to recognition pending before the Minister or the Court pursuant to the provisions of the former Act, as applied by subsection (1), on the date of the commencement of this Act shall be deemed to be applications for certification of recognition made to the Board on that date and this Act shall apply thereto accordingly.

(5) All matters falling within the definition of "trade dispute" under this Act and pending before the Minister pursuant to the former Act on the date of the commencement of this Act shall be deemed to have been reported to the Minister on that date, and this Act apply thereto accordingly.

(6) A dispute deemed to have been reported to the Minister under subsection (5) shall, subject to this section, be treated as—

(a) a dispute reported by a recognised majority union, where there is in force a collective agreement between the parties to which subsection (7) applies; or

(b) a dispute reported by a trade union under section 51(1)(c) in any other case,

and accordingly this Act shall apply thereto.

(7) Collective agreements registered by the Court under the former Act, as applied by subsection (1), and in force immediately prior to the commencement of this Act shall be deemed to have been registered under and in

conformity with this Act, and this Act, instead of the former Act, shall apply to the agreements.

86. (1) Subject to this section, where a collective agreement is, at the commencement of this Act deemed to have been registered under section 85(7), the trade union that is a party thereto shall be deemed to be recognised as the bargaining agent for workers comprised in the bargaining unit contemplated by the collective agreement; and the Board shall issue a certificate of recognition to that trade union as the recognised majority union with respect to that bargaining unit under and for the purposes of this Act.

Transitional
provisions.
[42 of 1972].
[44 of 1978].

(2) Where there is no collective agreement deemed to have been registered under section 85(7), the Minister shall, on the application of the union concerned, issue a certificate to any trade union he is satisfied was recognised immediately before the commencement of this Act, but, if it appears to the Minister that more than one trade union was so recognised he shall refer to the Board the question as to which trade union is to be recognised for the purposes of this Act; and the Board shall proceed to hear and determine such question in accordance with subsection (6).

(3) Upon the presentation of such a certificate to the Board, the Board shall issue a certificate of recognition to that trade union as the recognised majority union under and for the purposes of this Act. However, the Board may determine the appropriateness of the bargaining unit as if an application for certification of recognition was made in accordance with Part III.

(4) Where a trade union is certified as a recognised majority union in pursuance of this section an application for certification of recognition under Part III may not be made earlier than the date on which claims for recognition in place of that union might have been made under the former Act or earlier than two years from the date this Act comes into operation, whichever first occurs.

(5) For the purposes of subsection (1), if it appears to the Board that more than one trade union is a party to a collective agreement, deemed to have been registered under section 85(7), the Board shall determine the question as to which trade union is to be recognised for the purpose of this Act in accordance with subsection (6).

(6) In determining any question as to which trade union is to be recognised for the purpose of this Act under this section, the Board shall proceed on the assumption that each trade union concerned has as members in good standing more than fifty per cent of the workers comprised in the appropriate bargaining unit, and section 34(2) shall apply accordingly.

(7) Section 48 shall have effect for the purpose of determining whether a trade union is a party to a collective agreement deemed to have been registered under section 85(7).

(8) A dispute which arose before the commencement of this Act in an essential service or in the Civil Service, the Police Service, the Fire Service, the Prison Service, the Teaching Service, the Supplemental Police or the Central Bank and which is not settled before the commencement of this Act, shall be dealt with as follows:

- (a) where hearing of the dispute has commenced but is not yet completed, hearing shall be resumed not later than thirty days after the commencement of this Act, before the General Services Division or the Special Tribunal as constituted immediately before the commencement of this Act, as the case may be, in accordance with section 13(2) and (3) and where for any reason hearing cannot be resumed within the thirty-day period referred to herein, details of that reason shall be given in the judgment.
- (b) where hearing of the dispute is completed but judgement has not yet been delivered judgment shall be delivered by the General Services Division or the Special Tribunal as constituted immediately before the commencement of this Act, as the case may be, within thirty days of the commencement of this Act; save in exceptional circumstances when judgment shall be delivered not later than twenty-one days after the end of the thirty-day period referred to herein, in which case the nature of the exceptional circumstances which gave rise to the delay shall be indicated in the judgment;

- (c) where hearing of the dispute has not yet commenced, the dispute shall be heard by the Essential Services Division or the Special Tribunal as constituted under this Act, as the case may be.

87. This Act binds the State.

Act binds the State.

FIRST SCHEDULE

ESSENTIAL INDUSTRIES (CATEGORIES)

Sections 2 and 38(5).
[59/1978
61/1978
36/1980
137/1980].

1. Electricity Service (Generation, Transmission and Distribution).
2. Water and Sewerage Services.
3. Fire Service.
4. Health Services.
5. Hospital Services.
6. Sanitation Services (including scavenging).
7. Oil, Gas, Petrochemicals (Exploration, Exploitation, Refining, Manufacture, Distribution, Marketing).
8. Port Operations (Dock and Harbour, Cargo Handling, Ship Building and Repairing).
9. Sugar (Cultivation, Manufacture, Refining).
10. Communications, internal and external (Radio, Telephones, Telegraph, Television, Wireless).
11. Public Bus Transport Service (including Public School Bus Service).
12. Civil aviation services (including all services provided by a commercial airline the majority of the aircraft of which are registered in Trinidad and Tobago or are owned by citizens of Trinidad and Tobago or by a company incorporated in Trinidad and Tobago, aircraft maintenance, refuelling and ramp services, air traffic control and meteorological services and airline catering services).

13. The iron and steel industry, that is to say—
- (a) the processing and smelting of iron ore;
 - (b) the manufacturing of pig iron or direct reduced iron from iron ore and scrap;
 - (c) the converting of pig iron and scrap into steel;
 - (d) the rolling of steel into sheets and other forms by the operators of the smelting facility or by the converters into steel;
 - (e) the operation of blast furnaces or open-hearth furnaces;
 - (f) the handling of scrap iron, scrap steel and slag in the manufacture of pig iron or direct reduced iron or in the production of steel;
 - (g) the management and administrative functions necessary for or incidental to the carrying out of the activities described in paragraphs (a) to (f).

Sections 2 and
67(6).
[60/1978].

SECOND SCHEDULE

ESSENTIAL SERVICES

1. Electricity Service (Generation, Transmission and Distribution).
2. Water and Sewerage Services.
3. Internal Telephone Service.
4. External Communications (Telephone, Telegraph, Wireless).
5. Fire Service.
6. Health Services.
7. Hospital Services.
8. Sanitation Services (including scavenging).
9. Public School Bus Service.
10. Civil aviation services (including all services provided by a commercial airline the majority of the aircraft of which are registered in Trinidad and Tobago or are owned by citizens of Trinidad and Tobago or by a company incorporated in Trinidad and Tobago, aircraft maintenance refuelling and ramp services, air traffic control and meteorological services and airline catering services).

SUBSIDIARY LEGISLATION

INDUSTRIAL COURT (PENSIONS AND
GRATUITIES OF MEMBERS) REGULATIONS70/1976.
[25/1978].*made under sections 5(4) and 79*

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Interpretation.
3. Entitlement of member to pension or gratuity.
4. Retirement.
5. Age of retirement for members.
6. Rate of pension.
7. Gratuity and reduced pension; exercise of option.
8. Amount of gratuity payable on death in service.
9. Amount of gratuity payable in respect of non-pensionable service.
10. Restriction on amount of pension.
11. Pension, gratuity not assignable or attachable.
12. Retirement of members with pensionable service.
13. Transitional provisions.
14. Member not precluded from completing term of contract.

1. These Regulations may be cited as the Industrial Court (Pensions and Gratuities of Members) Regulations. Citation.

2. In these Regulations—

Interpretation.

- “member” means a member of the court, other than a member appointed under section 4(3)(a)(i) of the Act;
- “pensionable emoluments” means the salary paid to a member in respect of his service on the court;
- “pensionable service” means service that is pensionable under the Pensions Act of a member who has been moved from such service in consequence of his appointment as a member;

Ch. 23:52.

[Subsidiary]

Industrial Court (Pensions and Gratuities of Members) Regulations

8 of 1965.

"service on the court" means service as a member under the Act and includes service under the Industrial Stabilisation Act 1965 (now repealed by this Act).

Entitlement of member to pension or gratuity.

3. Subject to these Regulations, there shall be paid to a member on his retirement under these Regulations a pension or a gratuity or both calculated in accordance with these Regulations.

Retirement.

4. Subject to these Regulations, a member without pensionable service who—

- (a) in accordance with section 106 of the Constitution is removed from office for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause);
- (b) after having served the term of office specified in his instrument of appointment is not re-appointed to such office,

shall be deemed to have retired from that office.

Age of retirement for members.

5. (1) A member shall be required to retire from service on the court on his attaining the age of sixty-five years but may, with the approval of the President of Trinidad and Tobago, be permitted to retire on his attaining the age of fifty-five years.

(2) A member without pensionable service shall be granted a pension under these Regulations if he has attained the age of fifty-five years on the date of his retirement and has held his office for a period of not less than ten years.

Rate of pension.

6. Subject to these Regulations, the pension that shall be granted to a member without pensionable service shall be an amount not less than one-six hundredths of his annual pensionable emoluments drawn by him at the date of his retirement for each completed month of service on the Court; the amount of pension granted shall not however exceed two-thirds of such emoluments.

Gratuity and reduced pension; exercise of option.

7. (1) A member without pensionable service shall, if he has exercised his option as herein provided, but not otherwise, be paid in lieu of such pension at the rate of

Industrial Court (Pensions and Gratuities of Members) Regulations

[Subsidiary]

three-quarters of such pension together with a gratuity equal to twelve and a half times the amount of the reduction so made in the pension.

(2) The option referred to in subregulation (1) shall be exercisable, and if it has been exercised, may be revoked not later than the day immediately preceding the date of such member's retirement; but the President of Trinidad and Tobago may, if it appears equitable to do so, allow him to exercise the option or revoke an option previously exercised at any time between that date and the actual date of the first payment of any pension under these Regulations.

(3) Subject to subregulation (2), where a member has exercised the option referred to in subregulation (1), his decision shall be irrevocable so far as concerns any pension paid to him under these Regulations.

(4) Where a member who has not exercised the option dies after he has retired but before a pension has been paid to him under these Regulations, there shall be granted to his legal personal representative such gratuity and a reduced pension as is provided for in subregulation (1) as if the member before his death had exercised the option therein referred to; the pension shall not however be paid in respect of any period later than the date of the death of such member and shall not exceed in the aggregate the total amount due and payable to him on the said date.

(5) The date of the exercise of the option by a member referred to in subregulation (1) shall be deemed to be the date of the receipt of a written notification addressed to the President of Trinidad and Tobago.

8. Where a member without pensionable service dies before he has retired or is deemed to have retired under these Regulations there shall be paid to his legal personal representatives—

Amount of gratuity payable on death in service.

- (a) an amount equal to the gratuity, if any, which would have been payable to him under regulation 7(1) if he had retired at the date of his death and had exercised the option referred to in regulation 7(1); or

[Subsidiary]

Industrial Court (Pensions and Gratuities of Members) Regulations

- (b) where no such gratuity would have been payable on account of his not having held office for the period specified in regulation 5(2) at the date of his death an amount equal to the gratuity which would have been payable to him if he had been deemed to have retired from service on the Court under regulation 4 at that date or one year's pensionable emoluments whichever is the greater.

Amount of gratuity payable in respect of non-pensionable service.

9. There shall be paid to a member in respect of any service on the Court, which is not pensionable under these Regulations, a gratuity equal to twenty per cent of the total emoluments he received for such service or an amount not exceeding five times the annual amount of the pension calculated in accordance with regulation 6.

Restriction on amount of pension.
Ch. 23:52.

10. (1) Where whether before or after the making of these Regulations, a member without pensionable service is in receipt of a pension under the Pensions Act, the amount of pensions granted under these Regulations shall not when added to the amount of pension to which he is entitled under these Regulations, exceed two-thirds of his annual pensionable emoluments at the date of his retirement on pension under these Regulations.

Ch. 23:52.

(2) For the purposes of this regulation, where a person received both a gratuity and a pension under the Pensions Act in respect of the same period of service, the amount of the pension shall be deemed to be four-thirds of its actual amount.

Pension, gratuity not assignable or attachable.

11. No pension, gratuity or other allowance granted under these Regulations shall be assignable or transferable or liable to be attached, sequestered or levied upon, for or in respect of any debt or claim whatsoever other than a debt due and owing to the State.

Retirement of members with pensionable service.
Ch. 23:52.

12. (1) A member with pensionable service shall be entitled to retire from service on the court and to be paid a gratuity or pension or both under the Pensions Act as if his service on the court were pensionable service under that Act.

Industrial Court (Pensions and Gratuities of Members) Regulations

[Subsidiary]

(2) A member to whom subregulation (1) applies is entitled to retire and to be paid pension or gratuity or both with retrospective effect from the date on which under the Pensions Act he would have been required to retire if subregulation (1) had then been in force and may exercise from that date any option to which such entitlement gave rise.

13. (1) Where prior to the making of these Regulations a member with pensionable service receives a pension or a gratuity, or both, granted under the Pensions Act, or a gratuity in respect of service on the Court, nothing in these Regulations shall apply to the member unless, within thirty days of the making of these Regulations, he agrees—

Transitional provisions.

Ch. 23:52.

- (a) to the cessation of the payment of the pension or gratuity, or both; and
- (b) to refund to the State the full amount of the pension or gratuity or both.

(2) For the purposes of subregulation (1) a refund of any pension or gratuity, or both, shall become due and payable on the retirement on pension under these Regulations of a member and shall be paid out of any pension or gratuity, or both, payable to the member under these Regulations.

14. Nothing in these Regulations shall preclude a member who has attained the compulsory age of retirement from completing the term of his current appointment or from being re-appointed for a further term on its expiration; and all references to retirement from service on the Court shall be read and construed as including a reference to such retirement for the purposes only of pension under these Regulations. All such further service shall however, be excluded in calculating the member's pension.

Member not precluded from completing term of contract.

[Subsidiary]

133/1972.

**REGISTRATION RECOGNITION AND
CERTIFICATION BOARD RULES**

made under section 26(5)

ARRANGEMENT OF RULES

RULE

1. Citation.
2. Interpretation.
3. Meetings of the Board.
4. Committee quorum.
5. Prohibition as to interest.
6. General authority to officers of the Board to act.
7. Documents to be in triplicate.
8. Time of filing documents.
9. Enlarging time.
10. Adjournment of matters.
11. Amendment by leave of the Board.
12. Disposal of matters.
13. Consolidation of proceedings.
14. Service.
15. Directions for hearing.
16. Conduct of hearing.
17. Secrecy as to Union Membership.
18. Saving.
19. Notice to and reply by employer.
20. Notice of application.
21. Meeting for clarification or settling of matters regarding applications.

22. Notification to parties of bargaining unit determined by Board.
23. Insufficiency of records, etc.
24. Preferential ballot.
25. Notice of ballot.
26. Conduct of ballot.
27. Voting.
28. Challenge of Voters.
29. Submission of result of ballot.

SCHEDULE.

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

2. In these Rules— Interpretation.

“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;

“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.

General
authority to
officers of the
Board to act.

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, the 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.

(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.

Adjournment
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.

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.

Consolidation
of proceedings.

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.

Service.

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 section 23(3) and (4) of the Act as may be necessary or appropriate.

Directions for
hearing.

(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.

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 committee, as the case may be, on the matters considered at the hearing shall be communicated to the parties concerned.

Conduct of
hearing.

(2) Any person entitled to appear at a hearing is 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.

Notice to and
reply by
employer.
Form A.
Form B.
Schedule.

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 the service submit to the Board a reply to the notice in the form set out as Form B in the Schedule.

Notice of
application.

20. (1) Notice of every application made to the Board for certification of recognition shall be published in the *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.

(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.

Meeting for
clarification or
settling of
matters
regarding
applications.

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 section 33(1)(a) to (e) of the Act.

Notification to
parties of
bargaining unit
determined by
Board.

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.

Insufficiency of
records, etc.

23. (1) Where the records and other documents produced by an employer are inadequate to enable the Board to determine the persons employed by the 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.

(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 section 34(3)(a) to (d) 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

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.

Preferential
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—

Notice of ballot.

- (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 the 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 subrule (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 subrule (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 the decision.

(6) Where the Board allows an appeal made under subrule (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 subrule (6). 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 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. Voting.

28. (1) An agent is entitled to challenge any worker who he has reasonable cause to believe is not qualified to take part in the ballot by stating 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. Challenge of Voters.

(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 subrule (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.

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. Submission of result of ballot.

SCHEDULE

**THE REGISTRATION RECOGNITION AND CERTIFICATION
BOARD RULES**

Rule 19.

FORM A

**NOTICE OF APPLICATION FOR CERTIFICATION OF
RECOGNITION**

Name and Address of Claimant Union

Name and Address of Employer

To:

Take notice that on19
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.

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 thisday of, 19

.....
Secretary,
Registration Recognition and Certification Board

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 theday of, 19....
- (b) became effective on theday of, 19....
- (c) contains the following provision relating to its termination or renewal
9. Other relevant statements (Use additional pages if necessary)
-
-
-
-
- Dated atthisday of, 19....

*

Signature of/for the Employer

*State position held by signatory.

123/1972.

INDUSTRIAL RELATIONS (CERTIFICATION OF RECOGNITION) REGULATIONS

made under section 79(1)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Interpretation.
3. Application for certification to be made to Board.
4. Requirements for ballot.
5. Certain acts prohibited in or near premises where ballot conducted.
6. Bribery.
7. Treating.
8. Board to issue certificate to recognised majority union.
9. Board to issue certificate to trade unions recognised as bargaining agents.
10. Record of certification.
11. Revocation.
12. Cancellation of certificate of recognition.
13. Defacement of notices prohibited.
14. Offences and penalties.
15. Company guilty of offence.

SCHEDULE.

Citation.

1. These Regulations may be cited as the Industrial Relations (Certification of Recognition) Regulations.

Interpretation.

2. In these Regulations "ballot" means a ballot conducted under Part III of the Act.

Application for
certification to
be made to
Board.
Form 1.
Schedule.

3. Every trade union desiring to obtain certification of recognition in respect of a bargaining unit shall make application to the Board in the form set out as Form 1 in the Schedule.

Requirements
for ballot.

4. (1) An employer of workers in respect of whom certification of recognition is being applied for by a trade union shall in every case where a ballot in connection therewith is to be conducted, provide adequate accommodation on premises under his control for the conduct of the ballot.

(2) On the day or days on which the ballot is conducted, the employer shall permit every worker eligible to take part in the ballot to be absent from work during the conduct of the ballot for one hour or such longer period as the Board may specify. The period of absence permitted for the ballot shall be in addition to the normal mid-day meal period.

(3) An employer shall make no deduction from the pay of any worker or impose any other penalty on him in respect of any period for which the worker is permitted to be absent from work during the conduct of the ballot.

(4) No person who in accordance with the definitions in the Act—

(a) is comprised in or is responsible for the management of any undertaking or business, or department thereof; or

(b) holds office in a trade union,

shall, unless he is nominated by the employer or the trade union to be an official agent as approved by the Board under its rules, be within the immediate vicinity of the place where any balloting is being conducted.

5. (1) During the hours that a ballot is being conducted—

Certain acts prohibited in or near premises where ballot conducted.

(a) no person shall, on any premises on which the ballot is being conducted, or upon any road or in any place within one hundred yards of such premises, seek by any means whatever to influence a worker to vote or to refrain from voting for a trade union;

(b) no persons other than those waiting to vote, or persons authorised or permitted by the Rules of the Board or these Regulations to be present at the conduct of the ballot shall assemble or congregate on any premises in which a ballot is being conducted or within one hundred yards of such premises.

(2) No person shall seek to ascertain how any individual worker intends to vote or has voted.

(3) Any person who contravenes subregulation (1) or (2) is guilty of an offence.

6. (1) A person is guilty of an offence who directly or indirectly, by himself or by any other person on his behalf—

Bribery.

- (a) gives any money or procures any office to or for any worker or to or for any other person on behalf of any worker or to or for any other person in order to induce any worker to vote or refrain from voting or to reward any worker for having voted or for having refrained from voting;
- (b) makes any gift or procurement within the meaning of paragraph (a) to or for any person in order to induce that person to procure, or endeavour to procure, the selection of any union, or the vote of any worker in respect of any matter for which the ballot is being conducted or if upon or in consequence of any such gift or procurement, he procures or engages, promises or endeavours to procure, the selection of any union making the claim as aforesaid or the vote of any worker.

(2) A worker is guilty of an offence who before or during the conduct of a ballot directly or indirectly by himself or by any other person on his behalf, receives, agrees to receive or contracts for any money, gift, loan or valuable consideration, office, place of employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(3) A person is guilty of an offence, who, after the conduct of a ballot directly or indirectly by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(4) A person guilty of an offence against this Regulation is liable on summary conviction to a fine of ten thousand dollars but this penalty shall be without prejudice to any other penalty imposed under any other law.

Treating.

7. A person is guilty of an offence who corruptly by himself or any other person on his behalf, either before, during or after the conduct of a ballot, directly or indirectly gives or provides or pays wholly or in part the expenses of giving or providing any food, drink, entertainment or provision to or for any person—

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such conduct of the ballot; or

- (b) an account of that person or any other person having voted or refrained from voting.

8. Where the Board determines an application for certification of recognition and is satisfied that the applicant trade union should be certified as the recognised majority union, it shall issue to that trade union a certificate in the form set out as Form 2a in the Schedule.

Board to issue certificate to recognised majority union. Form 2a. Schedule.

9. (1) Every trade union that at the commencement of the Act is deemed to be recognised as the bargaining agent for workers comprised in a bargaining unit contemplated by a collective agreement in accordance with section 86(1) of the Act shall be issued by the Board a certificate in the form set out as Form 2b in the Schedule.

Board to issue certificate to trade unions recognised as bargaining agents.

Form 2b. Schedule.

(2) Where the Minister issues a certificate to a trade union under section 86(2) of the Act, the trade union shall upon presentation to the Board of the Minister's certificate and upon the Board being satisfied as to the appropriateness of the bargaining unit be issued a certificate in the form set out as Form 2c in the Schedule.

Form 2c. Schedule.

10. The record of certification required to be kept by the Board under section 41(1) of the Act shall be in the form set out as Form 3 in the Schedule.

Record of certification. Form 3. Schedule.

11. Upon a trade union being certified by the Board as the recognised majority union thereby replacing another trade union that immediately before the certification was the recognised majority union, the Board shall revoke the certification of the previously recognised majority union and cause appropriate amendments to be made in the record of certification referred to in regulation 10. Every such revocation shall be published in the *Gazette* and where the trade union whose certification has been revoked is a party to a subsisting collective agreement the Board shall immediately inform the Court of the revocation.

Revocation.

12. (1) Where the Court orders the cancellation of a trade union's certificate of recognition the Board shall thereupon cancel the relevant entry in the record of certification referred to in regulation 10 and shall cause notice of the cancellation to be published in the *Gazette* and in at least one daily newspaper circulating in Trinidad and Tobago.

Cancellation of certificate of recognition.

(2) In this Regulation and in regulation 11 "Court" means the Industrial Court established under section 4 of the Act.

Defacement of notices prohibited.

13. Any person who alters, defaces or removes any notice posted by the Board in accordance with its rules is guilty of an offence.

Offences and penalties.

14. A person who contravenes these Regulations is guilty of an offence and, save in the case of an offence against regulation 6, is liable on summary conviction to a fine of five thousand dollars and in the case of a continuing offence to a further fine of two hundred dollars for each day the offence continues.

Company guilty of offence.

15. Where the person guilty of an offence against these Regulations is a company, every director, manager, secretary and other officer of the company is guilty of the like offence and liable to the like punishment unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

SCHEDULE

Regulation 3.

FORM 1

THE INDUSTRIAL RELATIONS (CERTIFICATION OF RECOGNITION) REGULATIONS

APPLICATION FOR CERTIFICATION OF RECOGNITION

1. Name of Claimant Union
Registered or Business Address

2. Name of Employer
Address

3. (a) Description of the bargaining unit for which certification is sought:

(b) The location(s) at which the workers in the above mentioned bargaining unit normally work:

4. Approximate number of workers comprised in the bargaining unit for which the claimant Union seeks certification:

5. Approximate total number of workers employed in the undertaking or business of which the proposed bargaining unit forms a part:

6. Give the name of any other Trade Union representing or claiming to represent for collective bargaining purposes, any or all of the workers covered by this application:

7. (a) Is there any existing or recently expired Collective Agreement pertaining to any or all of the workers covered by this application?

(b) If known, give date of termination of Agreement:

8. Other relevant statements (Attach pages if necessary):

The Claimant Union, claiming that it has as members in good standing, within the meaning of the Act, more than fifty per cent (50%) of the workers in the bargaining unit hereinbefore described, hereby makes application, pursuant to section 32 of the Act, to be certified by the Registration Recognition and Certification Board as the recognised majority Union in respect of the workers in the said bargaining unit.

Made and Signed on behalf of the Claimant Union thisday of, 19.....

Signature

Office held

FORM 2a

Regulation 8.

THE INDUSTRIAL RELATIONS
(CERTIFICATION OF RECOGNITION) REGULATIONS

CERTIFICATE ISSUED TO
RECOGNISED MAJORITY UNION

Issued thisday of, 19.....

By virtue of and pursuant to the authority vested in it by section 37 of

the Industrial Relations Act, the Registration Recognition and Certification Board hereby certifies

(Name of Union)

as the recognised majority Union in respect of the workers employed by:

(Name of Employer)

and comprised in a bargaining unit as hereunder described:

The number of workers in the bargaining unit aforesaid as at the relevant date, that is to say theday of, 19.... was

The Certificate is effective from theday of, 19....

Chairman

(Seal of Board)

Secretary

Regulation
9(1).

FORM 2b

THE INDUSTRIAL RELATIONS
(CERTIFICATION OF RECOGNITION) REGULATIONS

CERTIFICATE ISSUED TO
RECOGNISED MAJORITY UNION

Issued thisday of, 19....

Pursuant to section 86(1) of the Industrial Relations Act, the Registration Recognition and Certification Board hereby certifies:

(Name of Union)

as the recognised majority Union in respect of the workers employed by:.....

(Name of Employer)

comprised in a bargaining unit as hereunder described:

.....

The Union and the Employer herein mentioned are parties to Registered Collective Agreement No.

(Seal of Board)

.....
Chairman

.....
Secretary

FORM 2c

Regulation
 9(2).

THE INDUSTRIAL RELATIONS
 (CERTIFICATION OF RECOGNITION) REGULATIONS

CERTIFICATE ISSUED TO
 RECOGNISED MAJORITY UNION

Issued thisday of, 19.....

Pursuant to section 86(3) of the Industrial Relations Act, the Registration Recognition and Certification Board hereby certifies:

.....
(Name of Union)

as the recognised majority Union in respect of the workers employed by:

.....
(Name of Employer)

comprised in a bargaining unit as hereunder described:

.....

.....
Chairman

(Seal of Board)

.....
Secretary

THE INDUSTRIAL RELATIONS (CERTIFICATION OF RECOGNITION) REGULATIONS

RECORD OF CERTIFICATION

YEAR 19.....

[illegible]