

Uganda

Trades Disputes (Arbitration and Settlement) Act Chapter 224

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Uganda

Trades Disputes (Arbitration and Settlement) Act Chapter 224

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An Act relating to the settlement of trade disputes generally and to the settlement of trade disputes in essential services, to provide for the establishment of arbitration tribunals, boards of inquiries and a standing industrial court, to control and regulate strikes and lockouts, and for matters incidental thereto.

Interpretation

1. Interpretation

In this Act, unless the context otherwise requires—

- (a) "**arbitration tribunal**" means an arbitration tribunal appointed under [section 3](#);
- (b) "**board of inquiry**" means a board of inquiry appointed under [section 8](#);
- (c) "**break**" means, in relation to a worker's contract of service, commit any act or make any omission which amounts to a breach of the contract of service under which he or she is employed;
- (d) "**contract of service**" has the same meaning as assigned to it in the Employment Act;
- (e) "**employer**" has the same meaning as assigned to it in the Employment Act;
- (f) "**essential service**" means one of the services specified in the Schedule to this Act;
- (g) "**industrial court**" means the standing industrial court established by [section 5](#);
- (h) "**lockout**" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him or her in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him or her, to accept terms or conditions of or affecting employment;
- (i) "**registered trade union**" has the same meaning as is assigned to it in the Trade Unions Act;
- (j) "**strike**" means the cessation of work by a body of persons employed, acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer;
- (k) "**trade dispute**" means any dispute or difference between employers and workers, or between workers and workers, connected with the employment or nonemployment, or the terms of employment, or with the conditions of labour, of any person;
- (l) "**worker**" means any person who has entered into or works under a contract with an employer whether the contract is by way of manual labour, clerical work or otherwise, is expressed or implied, oral or in writing, and whether it is a contract of service or apprenticeship or a contract personally to execute any work or labour.

General provisions for arbitration and settlement

2. Trade disputes to be reported to the Minister

- (1) Any trade dispute whether existing or apprehended may be reported in writing to the Minister by or on behalf of either of the parties to the dispute in such form and containing such particulars as may be prescribed by rules made under this Act.
- (2) Any person making a report of a dispute under subsection (1) shall send a copy of the report immediately to the other party or parties to the dispute.
- (3) Upon receipt of a report made under subsection (1), the Minister may, in his or her absolute discretion, proceed to deal with the report in any one or more of the following ways—
 - (a) inform the parties to the dispute that the report comprises matters which in the Minister's opinion are unsuitable to be dealt with under this Act;
 - (b) inform the parties that he or she accepts or rejects the report of the trade dispute, having regard to the sufficiency or otherwise of the particulars set out in the report, to the nature of the report or to the endeavours made by any of the parties to achieve a settlement of the dispute, or having regard to any other matter which the Minister considers to be relevant in the circumstances giving his or her reasons therefor;
 - (c) refer the matter back to the parties and if he or she thinks fit, make a proposal to the parties or to any of them upon which a settlement of the trade dispute may be negotiated;
 - (d) appoint a conciliator to conciliate the parties in dispute and inform the parties, in writing, of the appointment.
- (4) If, within six weeks of the appointment of a conciliator under subsection (3)(d), an agreement has not been reached on all matters constituting a trade dispute or before that time the conciliator considers that there is no likelihood of reaching an agreement, he or she shall submit a report to the Minister stating the points of disagreement between the parties to the trade dispute.
- (5) On receipt of a report submitted under subsection (4), the Minister shall, as soon as possible, refer the trade dispute as reported with or without the consent of the parties to it, either to—
 - (a) an arbitration tribunal appointed by him or her in accordance with [section 3](#); or
 - (b) the industrial court established in accordance with [section 5](#).
- (6) Where one of the parties to a trade dispute fails or refuses to sign the terms of reference to an arbitration tribunal or the industrial court under this section, the terms of reference shall be signed by the party that made a report of an existing or apprehended trade dispute to the Minister and shall be countersigned by the conciliator in the dispute.
- (7) If there are existing in any trade or industry any arrangements for settlement by conciliation or arbitration of disputes in that trade or industry, or any branch of it, made in pursuance of an agreement between organisations of employers and organisations of workers representative respectively of substantial proportions of the employers and workers engaged in that trade or industry, the Minister shall not, unless with the consent of both parties to the dispute, and until there has been a failure to obtain a settlement by means of those arrangements, refer any dispute for settlement to an arbitration tribunal or the industrial court under this section.
- (8) The Arbitration and Conciliation Act shall not apply to any proceedings of an arbitration tribunal or the industrial court under this Act or to any award made by the tribunal or court.

3. Constitution of arbitration tribunal

When a dispute is referred to an arbitration tribunal by the Minister under [section 2](#), the tribunal shall be constituted of—

- (a) a sole arbitrator appointed by the Minister;
- (b) an arbitrator appointed by the Minister assisted by one or more assessors nominated by or on behalf of the employers concerned and an equal number of assessors nominated by or on behalf of the workers concerned, all of whom shall be appointed by the Minister; but the award shall be made and issued by the arbitrator only;
- (c) one or more arbitrators nominated by or on behalf of the employers concerned and an equal number of arbitrators nominated by or on behalf of the workers concerned, and an independent chairperson, all of whom shall be appointed by the Minister; but where all the members of the tribunal are unable to agree as to their award, the matter shall be decided by the chairperson as sole arbitrator.

4. Vacancies on the tribunal

- (1) Whenever an arbitration tribunal consists of more than one arbitrator and any vacancy occurs in their number, the tribunal may, with the consent of the parties, act notwithstanding the vacancy.
- (2) Whenever the tribunal consists of an arbitrator, assisted by assessors, and any vacancy occurs in the number of assessors, the tribunal may in the discretion of the arbitrator either act notwithstanding the vacancy or consent to another assessor being nominated and appointed to fill the vacancy.
- (3) No act, proceeding or determination of the tribunal shall be called in question or invalidated by reason of any such vacancy, provided that in the circumstances referred to in subsection (1) the required consent has been first obtained.

5. Establishment of a standing industrial court

- (1) There is established a standing industrial court for the purpose of arbitrating on trade disputes referred to it under this Act.
- (2) The industrial court shall comprise—
 - (a) a chairperson to be appointed by the Minister after consultation with the Attorney General and the Chief Justice who shall hold office on such terms and conditions and for such period as may be specified;
 - (b) a deputy chairperson to be appointed by the Minister after consultation with the Attorney General and the Chief Justice who shall hold office on such terms and conditions and for such periods as may be specified and who shall preside at all meetings of the industrial court in the absence of the chairperson;
 - (c) one person to be appointed by the chairperson from a panel of not less than three persons appointed by the Minister for such period as may be specified, not representing employers or workers, who shall sit with the chairperson as an independent member of the industrial court;
 - (d) subject to subsection (3), one person to be appointed by the chairperson from a panel of not less than three persons appointed by the Minister for such period as may be specified, to represent employers, who shall sit with the chairperson as member of the industrial court in respect of any one particular dispute referred to the court for arbitration;
 - (e) subject to subsection (3), one person to be appointed by the chairperson from a panel of not less than three persons appointed by the Minister for such period as may be specified, to

represent workers, who shall sit with the chairperson as member of the industrial court in respect of any one particular dispute referred to the court for arbitration.

- (3) In appointing a member of the industrial court under subsection (2)(d) or (e), the chairperson may take into consideration any nomination from the panel made to him or her by the employers or the workers concerned with the dispute before the industrial court, as the case may be, but the chairperson shall not be bound by the nomination.
- (4) There shall be the clerk to the industrial court being a public officer who shall be the administrative head of the court.

6. Functions of the industrial court

The industrial court shall be competent to hear and arbitrate, as authorised by this Act, and subject to it, any trade dispute—

- (a) referred to it by the Minister under this Act; and
- (b) referred to it direct but jointly by all parties to the dispute; except that the industrial court shall not consider any trade dispute referred to it under this paragraph—
 - (i) which is already subject to proceedings under the other provisions of this Act; or
 - (ii) if other machinery or arrangements exist which in the opinion of the industrial court are appropriate for settlement by conciliation or arbitration of the dispute.

7. Party to a recognition and procedural agreement may initiate discussion

- (1) Any of the parties to a recognition and procedural agreement who is of the opinion that a matter likely to lead to a trade dispute has arisen may give eight weeks' notice to the other party to negotiate under the agreement with a view to reaching a settlement on the matter.
- (2) If, after the expiration of eight weeks' notice given under subsection (1), no negotiations have been entered into, the party which gave the notice under subsection (1) shall report the matter to the Minister who shall investigate the cause of the delay in negotiating the matter.
- (3) After the investigation has been made under subsection (2) as to the cause of the delay in negotiating a settlement of the matter in dispute, the Minister may—
 - (a) order the parties to start negotiation within two weeks from the time the investigation as to the cause of the delay in negotiating the matter is concluded; or
 - (b) appoint a conciliator if the Minister is of the opinion that negotiations are not likely to bring about a quick settlement of the matter in disagreement.
- (4) If an agreement is not reached under subsection (3), then the provisions of [section 2\(5\)](#) and (6) shall apply to the settlement of the disagreement and, for the purposes of this Act, the disagreement shall be treated as a trade dispute.

8. Appointment of boards of inquiry

- (1) Notwithstanding any other provisions of this Act, the Minister may whenever he or she considers it expedient and whether or not a trade dispute has been reported to him or her under this Act, appoint a board of inquiry to—
 - (a) inquire into and report to him or her on any trade dispute whether existing or apprehended between any employers and workers or any class of employers or workers; or
 - (b) inquire into and report to him or her on any matter relating to the terms of employment or working conditions of any workers or class of workers or matters affecting the relations between any employers and workers, as the Minister may direct.

- (2) A board of inquiry appointed under this section may be constituted of either—
 - (a) a single person; or
 - (b) such number of persons including a chairperson as the Minister may appoint; but where representatives of employers and workers (which shall be in equal numbers) are appointed under this paragraph, the representatives shall not be persons concerned or employed in the particular trade or industry into which the board is to inquire.
- (3) For the purpose of its inquiry, a board of inquiry shall have all the powers relating to evidence as are conferred on an arbitration tribunal by [section 14](#).
- (4) Upon receipt of the report of a board of inquiry, the Minister—
 - (a) may cause to be published in such manner as he or she may deem expedient the whole or any part of the report; and
 - (b) if the report relates to any existing trade dispute, shall make known to all or any of the parties concerned as he or she considers appropriate the findings and the recommendations contained in the report.
- (5) If, after having made known to the parties concerned the findings and recommendations contained in the report of a board of inquiry in accordance with subsection (4)(b), the parties or any one of them refuse to settle the dispute as recommended by the board within such time as may be specified by the Minister, the Minister may—
 - (a) refer the dispute to an arbitration tribunal to be appointed by him or her in accordance with [section 3](#); or
 - (b) refer the dispute to the industrial court established by [section 5](#).

9. Announcement of award, date of effect

- (1) Any award of an arbitration tribunal or the industrial court shall be announced by the arbitrator or, in the case of an award by the industrial court, by the chairperson or deputy chairperson in the presence of both parties to the dispute and the arbitrator or, in the case of an award announced by the industrial court, the chairperson or deputy chairperson shall cause it to be published in the *Gazette*.
- (2) A copy of an award announced under subsection (1) shall be submitted to the Minister by the arbitrator or, in the case of an award announced by the industrial court, by the chairperson or deputy chairperson.
- (3) An award of an arbitration tribunal or the industrial court shall take effect from such date as may be determined by the tribunal or the court, as the case may be, and may be made retrospective to a date not being earlier than the date on which the dispute to which the award relates first arose.
- (4) The decision of the arbitration tribunal or the industrial court as to the effective date of the award shall be conclusive so, however, that if no such date has been determined by the tribunal or the court, the award shall take effect from the date of its publication under subsection (1).
- (5) An arbitration tribunal or the industrial court when making an award under this Act shall be entitled to determine the period during which the award shall remain in force and binding on the parties concerned, and the award shall, subject to subsection (6), so remain in force from the date on which it takes effect under subsection (3) or (4), as the case may be.
- (6) During the period an award under subsection (5) remains in force, no party to the trade dispute to which the award relates shall be entitled to report the dispute to the Minister under [section 2](#).

10. Penalty for breach of implementing an award

- (1) Every employer who fails or refuses to implement an award of an arbitration tribunal or the industrial court within twenty-eight days from the date of its publication under [section 9\(1\)](#) commits an offence and is liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months or to both.
- (2) Where an offence under this section is committed by a trade union or an employees association, any person who, at the time of the commission of the offence, was a member of the executive committee of that trade union or employees association is deemed to have committed the like offence and is liable to the penalties prescribed under subsection (1) unless he or she proves that he or she took all reasonable steps to stop its commission.
- (3) A prosecution for an offence under this section shall not be instituted except by or with the written consent of the Director of Public Prosecutions; except that a person may be arrested for and charged with such an offence, and may be remanded in custody or on bail, notwithstanding that the consent of the Director of Public Prosecutions for the offence has not been obtained; but no further or other proceedings shall be taken until that consent has been obtained.

11. Awards not to conflict with any other written law

Where any trade dispute referred to an arbitration tribunal or the industrial court involves questions as to wages, or as to hours of work, or otherwise as to the terms or conditions of or affecting employment which are regulated by any written law other than this Act, the tribunal or the court shall not make any award which is inconsistent with that written law.

12. Effect of agreement, decision or awards

Any agreement, decision or award made under this Act shall be binding on the employers and workers to whom the agreement, decision or award relates and, as from the date of the agreement, decision or award or as from such date as may be specified in it not being earlier than the date on which the dispute to which the agreement, decision or award relates first arose, it shall be an implied term of the contract between the employers and workers to whom the agreement, decision or award relates that the rate of wages paid and the conditions of employment to be observed under the contract shall be in accordance with the agreement, decision or award until varied by a subsequent agreement, decision or award.

13. Interpretation of awards

- (1) If any question arises as to the interpretation of any award of an arbitration tribunal or the industrial court, the Minister or any party to the award may, within twenty-eight days from the time of the publication of the award, apply to the tribunal or the court for a decision on the question, and the tribunal or the court shall decide the matter after hearing the parties, or without a hearing provided the consent of the parties has been first obtained.
- (2) The decision of the tribunal or the court shall be notified to the parties and shall be deemed to form part of and shall have the same effect in all respects as the original award.

14. Evidence

- (1) For the purpose of dealing with any matter referred to it, an arbitration tribunal or the industrial court of its own volition or on the application of either of the parties to the dispute shall have full power by order to require any person to furnish, in writing or otherwise, such particulars in relation to the matter as the tribunal or the court may require, and where necessary to attend before the tribunal or the court and give evidence on oath or otherwise, and to require the production of documents, so as to elicit all such information as in the circumstances may be considered necessary, without being bound by the rules of evidence in civil or criminal proceedings.

- (2) Notwithstanding subsection (1), if any witness objects to answering any question or to producing any document on the ground that it will tend to incriminate him or her or on any other lawful ground, he or she shall not be required to answer the question or to produce the document nor shall he or she be liable to any penalties for refusing to do so.

15. Appearance of legal practitioners

In any proceedings before an arbitration tribunal or the industrial court, either party may appear by a legal practitioner.

16. Sittings may be public or private

- (1) It shall be in the discretion of an arbitration tribunal or the industrial court to admit or exclude the public or the press from any of its sittings.
- (2) Whenever the press shall have been allowed to be present at a sitting of the tribunal or the industrial court, and not otherwise, a fair and accurate report or summary of the proceedings, including the evidence adduced at that sitting, may be published; but until the award has been published under [section 9](#), no comment shall be published in respect of the proceedings or the evidence.
- (3) Any person who contravenes this section commits an offence and is liable on conviction to a fine of two thousand shillings.

17. Counselling or procuring lockouts or strikes in certain circumstances an offence

- (1) Subject to subsection (2), no person, whether an officer of a trade union or other association or not, shall declare, instigate, counsel, procure or abet a lockout or strike.
- (2) Subsection (1) shall not apply to a lockout or strike in connection with a trade dispute where the machinery or arrangements, if any, subsisting under this Act or otherwise for the settlement by conciliation and arbitration of the dispute have been adhered to and exhausted.
- (3) Any person who acts in contravention of this section commits an offence and is liable on conviction to a fine not exceeding five thousand shillings or to imprisonment not exceeding one year or to both such fine and imprisonment.

Special provisions relating to essential services

18. Breach or termination of contract by worker an offence

- (1) Any worker who—
 - (a) being a worker in an essential service, wilfully breaks or terminates his or her contract of service otherwise than in the circumstances specified in [section 19](#), knowing or having reasonable cause to believe that the probable consequences of his or her so doing, either alone or in combination with others, will be to deprive the public or any section of the public of that essential service or substantially to diminish the enjoyment of that essential service by the public or by any section of the public; or
 - (b) whether a worker in an essential service or not, wilfully breaks or terminates his or her contract of service knowing or having reasonable cause to believe that the probable consequences of his or her so doing, either alone or in combination with others, will be to endanger human life or public health, or to cause serious bodily injury to any person, or to expose valuable property to the risk of destruction, loss or serious injury,

commits an offence and is liable on conviction to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding fourteen days to both such fine and imprisonment.

- (2) Any person who causes or procures or counsels any worker to break or terminate his or her contract of service knowing or having reasonable cause to believe that the probable consequences of that worker's breach or termination of contract of service, either alone or in combination with others, will be—
- (a) to deprive the public or any section of the public of an essential service or substantially to diminish the enjoyment of an essential service by the public or by any section of the public; or
 - (b) to endanger human life or public health, or to cause serious bodily injury to any person, or to expose valuable property to the risk of destruction, loss or serious injury,
- as the case may be, commits an offence and is liable on conviction to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.
- (3) In any proceedings in respect of an offence under this section, the court shall presume the existence of a contract of service of the nature of the contract of service, and in the particular service, alleged in the charge relating to the proceedings, until the contrary is proved.

19. Collective withdrawal of labour from essential services

- (1) Where any collective withdrawal of labour from an essential service is contemplated, whether in pursuance of a trade dispute or otherwise, and notice in writing of their intended participation in the withdrawal is given, either individually by workers in that service or on their behalf by a registered trade union of which the workers are members, to the employer, then, if the notice has not been withdrawn—
- (a) a worker by whom or on whose behalf notice is so given; and
 - (b) a person who causes or procures or counsels such a worker to break or terminate his or her contract of service,

shall not be guilty of an offence under [section 18](#) if the worker breaks or terminates his or her contract of service after the expiration of fourteen days but before the expiration of twenty-two days after the delivery of the notice.

- (2) Notwithstanding subsection (1), where any collective withdrawal from an essential service is contemplated in furtherance of a trade dispute, notice shall not be valid unless accompanied by a certificate under the hand of the Minister stating that a dispute in an essential service has been reported, that twenty-eight days have elapsed since the date of the report, and the dispute has not during that time been referred by him or her for settlement by the industrial court or by an arbitration tribunal.

20. Printed copies of sections [18](#) and [19](#) to be displayed by employer

- (1) Every employer in an essential service shall cause to be posted up, upon the principal premises used for the purpose of discharging that essential service, a printed copy of sections [18](#) and [19](#) in some conspicuous place where the copy may conveniently be read by his or her workers, and as often as the copy becomes defaced, obliterated, destroyed or removed shall cause it to be replaced with all reasonable dispatch.
- (2) Any employer who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred shillings for every day during which the default continues.
- (3) Any person who wilfully, without reasonable cause or excuse, defaces, obliterated, destroys, removes or covers up any printed copy posted up under subsection (1) commits an offence and is liable on conviction to a fine not exceeding five hundred shillings.

21. Minister may vary Schedule of essential services

- (1) The Minister may at any time by statutory instrument delete from or add to the Schedule to this Act.
- (2) Any statutory instrument made under this section shall be laid as soon as conveniently may be before Parliament, and shall remain in force unless cancelled or amended by resolution of Parliament when it shall cease to have effect, or shall have effect in its amended form, as the case may be, but without prejudice to the validity of anything done by virtue of the instrument prior to the cancellation or amendment.

22. Power of Minister to certify as to essential service in case of doubt

In the case of any doubt arising, the Minister shall, in his or her absolute discretion, decide whether any service is one within a classification set out in the Schedule to this Act; and the decision, certified under his or her hand, shall be conclusive except that where a lockout or strike has occurred and the Minister is satisfied that the parties to the lockout or strike have so acted in the reasonable belief that the service is not one within such classification, he or she shall cause a certificate under his or her hand to be served upon the parties to the lockout or strike stating that the service is within such classification, and the lockout or strike shall thereupon be deemed to be a trade dispute to which [section 2](#) shall apply as and from the date of service of the certificate.

23. Consent of Director of Public Prosecutions

A prosecution for an offence under [section 18](#) shall not be instituted except by, or with the written consent of, the Director of Public Prosecutions; except that a person may be arrested for and charged with such an offence, and may be remanded in custody or on bail, notwithstanding that the consent of the Director of Public Prosecutions to the institution of a prosecution for the offence has not been obtained; but no further or other proceeding shall be taken until that consent has been obtained.

Miscellaneous

24. Rules of procedure for industrial court

- (1) The Minister may, after consultation with the Attorney General and the Chief Justice, make rules prescribing the form and the manner in which trades disputes may be referred to the industrial court, the procedure for the hearing of the disputes and generally for the conduct of its business.
- (2) Whenever any question shall arise in the course of the hearing of a trade dispute in respect of which rules have not been made under this section, the industrial court shall regulate its own procedure.

25. Rules of procedure for arbitration tribunals and boards of inquiry

- (1) The Minister may make rules regulating the procedure to be followed by an arbitration tribunal and a board of inquiry appointed under this Act.
- (2) Whenever any question shall arise in the course of an arbitration or inquiry in respect of which rules have not been made, the tribunal or the board shall regulate its own procedure.

26. Minister's certificate to be conclusive proof

A certificate under the hand of the Minister stating that a dispute has been reported to him or her under [section 2](#) and the date of the report shall be conclusive for all purposes, and the certificate shall be receivable in evidence and be conclusive proof in all courts of the facts set out in the certificate.

27. Payment of expenses and appointment of staff

- (1) The Minister may, with the approval of the Minister responsible for finance, determine the remuneration, including allowances, payable to any member of an arbitration tribunal, industrial court or board of inquiry or assessor or other person appointed under this Act.
- (2) The Minister may, with the approval of the Minister responsible for finance, appoint on such remuneration and on such terms and conditions as he or she may determine such officers and other servants as may be necessary for carrying out the purposes of this Act.
- (3) Any expenses incurred in carrying this Act into effect shall be paid out of the Consolidated Fund.

28. Minister may make rules

The Minister may make rules prescribing anything required to be prescribed under this Act.

29. Application

This Act shall not apply to members of the Uganda Peoples' Defence Forces, members of any police force established by the Constitution or Act of Parliament, public officers or persons otherwise employed by the Government and such other persons or class of persons as the Minister may by statutory instrument declare.

Schedule (Section 1)**Essential services**

1. Water services
2. Electricity services
3. Health, sanitary and hospital services
4. Fire services
5. Prisons services of the administrations of districts
6. Air traffic control services
7. Civil aviation telecommunications services
8. Meteorological services
9. Transport services necessary to the operation of any of the services set out in this Schedule
10. Supply and distribution of fuel, petrol and oil services
11. Teaching services
12. Public transport services
13. Services relating to rail, road and inland waterways transport and inland waterways ports
14. Services relating to civil aviation