

INDUSTRIAL RELATIONS ACT

(CHAPTER 136)

Short title

1. This Act may be cited as the Industrial Relations Act.

Interpretation

2. In this Act, unless the context otherwise requires —

"award" means an award made by a Court;

"collective agreement" means an agreement as to industrial matters;

"Commissioner" means the Commissioner for Labour appointed under section 3 of the Employment Act (Cap. 91), and includes a Deputy Commissioner for Labour, a Principal Assistant Commissioner for Labour and an Assistant Commissioner for Labour under that Act;

"conciliation officer" means a conciliation officer appointed under section 28;

"Court" means an Industrial Arbitration Court established under section 3;

"employee" means a person who has entered into or works under a contract of service with an employer and includes an officer or servant of the Government included in a category, class or description of such officers or servants declared by notification in the *Gazette* by the President of Singapore to be employees for the purposes of this Act, but does not include any person or class of persons whom the Minister may from time to time by notification in the *Gazette* declare not to be employees for the purposes of this Act;

"employer" means any person who employs another person under a contract of service and includes —

(a) the Government in respect of such categories, classes or descriptions of officers or servants of the Government as from time to time are declared by the President of Singapore to be employees for the purposes of this Act;

(b) a statutory authority;

(c) a duly authorised agent or manager of an employer;

(d) a person who owns, or is carrying on, or for the time being responsible for the management or control of a profession, business, trade or work in which an employee is engaged;

(e) for the purposes of Parts IV, V and VI, the transferor of an undertaking whose employment of employees is transferred by virtue of section 18A of the Employment Act (Cap. 91);

"industrial matters" means matters pertaining to the relations of employers and employees which are connected with the employment or non-employment or the terms of employment, the transfer of employment or the conditions of work of any person;

"industrial relations officer" means an industrial relations officer appointed under section 28;

"inspecting officer" means a person who is an inspecting officer for the purposes of the Employment Act;

"officer" , when used with reference to a trade union or a branch of a trade union, includes any member of the body, by whatever name called, to which the management of the affairs of the trade union or branch is entrusted;

"President" means the President or the Deputy President of the Courts and includes an acting President or acting Deputy President;

"Registrar" means the Registrar of the Courts appointed under this Act and includes a Deputy Registrar and an Assistant Registrar;

"trade dispute" means a dispute (including a threatened, impending or probable dispute) as to industrial matters;

"trade union" means a trade union of employees or employers registered under any written law for the time being in force relating to the registration of trade unions;

"transfer of employment" means the transfer of an employee's employment from the transferor of an undertaking to the transferee under section 18A of the Employment Act (Cap. 91); "transferee" means the person to whom an undertaking is transferred and who becomes the employer of the transferor's employees by virtue of section 18A of the Employment Act; "undertaking" includes any trade or business.

[36/95]

Courts

3. —(1) There shall be one or more Industrial Arbitration Courts to be presided over by a President or Deputy President to be appointed by the President of Singapore in accordance with the advice of the Prime Minister.

(2) Except where otherwise provided by this Act, a Court shall, in relation to a trade dispute of which the Court has cognizance or any other matter with respect to which the Court has jurisdiction under this Act, be constituted by the President or the Deputy President and 2 members selected for the purposes of the trade dispute or matter in the manner set out in this Act from the 2 panels constituted in accordance with this Part.

President and Deputy President

4. —(1) The President shall not be deemed to be a public servant, but shall have the same rights, privileges, protection and immunity as a Judge of the Supreme Court.

(2) The provisions of the Constitution relating to the tenure of office and the terms of office of Judges of the Supreme Court shall be deemed to apply to the President as if he were a Judge of the Supreme Court.

(3) The Deputy President shall be paid such remuneration and allowances as may from time to time be determined and shall in the performance of his functions and duties have the same protection and immunity as the President.

Acting President

5. —(1) When the President is or is expected to be absent from duty the President of Singapore may, on the advice of the Minister, appoint a person to be acting President during the absence of the President.

(2) A person so appointed shall, notwithstanding that the President may no longer be absent, continue to be acting President for the purposes of completing the hearing of and of determining a trade dispute or matter the hearing of which was commenced during the absence of the President.

(3) An acting President shall in the performance of the functions and duties of the President have the same protection and immunity as the President.

Panels

6. —(1) For the purpose of enabling the Courts to be constituted in accordance with this Act, 2 panels of persons (referred to in this Act as the employer panel and the employee panel) shall be appointed in the manner set out in this section.

(2) The employer panel and the employee panel shall each consist of 10 persons appointed by the Minister whose names shall be notified in the *Gazette*.

(3) The Minister may from time to time invite —

(a) a trade union of employers to nominate for inclusion in the employer panel such number of persons as he may specify being persons eligible for appointment to that panel in accordance with section 7; and

(b) a trade union of employees to nominate for inclusion in the employee panel such number of persons as he may specify being persons eligible for appointment to that panel in accordance with section 7.

(4) Subject to subsection (5) —

(a) 7 of the members of the employer panel shall be persons nominated in reply to an invitation by the Minister under subsection (3) and 3 of the members of that panel shall be persons nominated by the Minister for Finance as nominees of the Government as an employer; and

(b) the members of the employee panel shall be persons nominated in reply to an invitation by the Minister under subsection (3).

(5) Where the Minister has invited nominations for inclusion in a panel from such trade unions of employers or employees as in the circumstances he considers appropriate and no suitable person is nominated or the number of suitable persons nominated is less than the number which is required to be appointed in order that all vacancies in that panel may be filled, the Minister may, after filling as many vacancies as he is able to do by the appointment of suitable persons nominated in accordance with this section, appoint persons who have not been so nominated to fill the vacancies unfilled or remaining unfilled.

(6) For the purposes of subsection (5), a person shall be deemed to be a suitable person for appointment to a panel if he is eligible in accordance with section 7 and is in the opinion of the Minister a fit and proper person to be selected to be a member of the Court.

Eligibility for membership of panels

7. —(1) Subject to subsection (2), a person who is an employee shall not be eligible to be a member of the employer panel.

(2) A person in the service of the Government shall be eligible to be a member of the employer panel if he is nominated by the Minister for Finance.

(3) A person who is an employer or a director of a company which is an employer or is employed by a trade union of employers or association of employers shall not be eligible to be a member of the employee panel.

(4) A person who —

(a) is an undischarged bankrupt;

(b) is of unsound mind;

(c) is not a citizen of Singapore;

(d) is ineligible by reason of section 57 to be nominated for election as an officer of a trade union; or

(e) has within the previous 3 years been convicted of an offence under the Trade Disputes Act (Cap. 331) or this Act,

shall not be eligible for appointment to a panel.

(5) The Minister may exempt any person from subsection (1) or (3).

Duration of appointment

8. —(1) A person appointed to a panel shall, subject to section 9, be a member of the panel for a period of one year unless he sooner resigns but shall be eligible for reappointment.

(2) A panel member who resigns or whose appointment expires during the course of any proceedings of a Court shall for the purposes of such proceedings and until their determination be deemed to remain a member of the Court.

Removal from panel

9. —(1) The Minister shall remove from a panel a person who —

(a) ceases to be eligible to be a member of that panel in accordance with section 7;

(b) accepts any relief afforded by law to bankrupts or insolvent debtors; or

(c) has declined to constitute a Court when selected to do so or has absented himself, when selected, from the proceedings of the Court unless he has shown reasonable cause for so declining or absenting himself.

(2) The Minister may remove a person from a panel if he is of the opinion that that person —

(a) has become permanently incapable of discharging the functions of a member of a Court; or

(b) is not a fit and proper person to be selected to constitute a Court.

Vacancies in panels

10. Where a person ceases to be a member of a panel the Minister shall, as soon as is reasonably practicable, take steps to fill the vacancy but the existence of any vacancy in either panel shall not invalidate the constitution of a Court.

Constitution of Court

11. —(1) For the purpose of constituting a Court in relation to a trade dispute or matter, the President shall determine in the manner prescribed by any regulations made under this Act who are the parties to the trade dispute or matter and shall invite —

(a) the trade unions of employees which are parties to the trade dispute or matter to select one member of the employee panel; and

(b) the employers who are parties to the trade dispute or matter to select one member of the employer panel.

(2) If all the trade unions of employees who are parties to the trade dispute or matter or all the employers who are parties to the trade dispute or matter unanimously select a member of the employee or employer panel, as the case may be, the President shall declare that that person shall be a member of the Court for the purposes of the trade dispute or matter.

(3) If a member of a panel is not selected in accordance with subsection (2), the President shall —

(a) if he is of the opinion that a member of that panel has been selected by trade unions of employees who represent the majority of employees concerned in the trade dispute or matter or by the majority of the employers concerned in the trade dispute or matter, as the case may be, declare that that person shall be a member of the Court for the purposes of the trade dispute or matter; and

(b) in any other case, notify the Minister and the Minister shall select a person from the panel and the President shall declare that that person shall be a member of the Court for the purposes of the trade dispute or matter.

(4) When the President has declared that a person shall be a member of the Court for the purposes of a trade dispute or matter that person shall, subject to section 12, be a member of the Court for the purposes of that trade dispute or matter notwithstanding that in the proceedings relating to the trade dispute or matter parties may be joined or struck out.

(5) Such declaration shall not be challenged or called in question on the ground that the selection may not have been in accordance with this section.

Protection and immunity of members of Court

13. —(1) A member of a Court shall, in the performance of his functions and duties under this Act, have the same protection and immunity as the President.

(2) The members of a Court shall take the oath of allegiance and the judicial oath.

Allowances

14. A member of a panel who is a member of a Court for the purposes of a trade dispute or matter may, in respect of each day on which the Court is engaged in the hearing and determining of the trade dispute or matter, be paid such allowances as may be prescribed by regulations made under this Act.

Registrar and officers of Courts

15. —(1) There shall be appointed a Registrar of the Courts and such Deputy Registrars and Assistant Registrars and other officers of the Courts as the President of Singapore considers necessary.

(2) The duties of the Registrar and other officers of the Courts shall, subject to this Act and any regulations made thereunder, be as the President directs.

(3) The Registrar and other officers of the Courts shall be deemed to be public servants for the purposes of the Penal Code (Cap. 224).

Recognition of trade union of employees

16. —(1) No trade union of employees which has not been given recognition by an employer in the prescribed manner may serve on that employer a notice under section 17.

(2) No trade union of employees whose constitution and rules do not permit it to admit as members any class of employees may seek recognition in respect of that class of employees or serve a notice under section 17 in respect of those employees.

(3) No trade union of employees the majority of whose membership consists of employees in non-managerial or non-executive positions may seek recognition in respect of employees in managerial or executive positions or serve a notice under section 17 in respect of those employees.

(4) Where an employer raises the objection that a trade union should not represent certain employees or a class of employees, the employer and the trade union shall make a joint application to a Court for the determination of the question.

(5) Until the Court gives its decision, the employer shall recognise the trade union in respect of other employees or class of employees in respect of whom the recognition of the trade union by the employer is not in dispute if the trade union represents the majority of such employees or class of employees.

(6) The powers of a Court under subsection (4) shall be exercisable by the Court constituted by the President alone.

(7) Subsection (1) shall not apply to the extent that a trade union of employees is deemed to be recognised by a transferee under section 18A (8) of the Employment Act (Cap. 91).

Invitation to negotiate

17. —(1) A trade union of employees which has been accorded recognition by an employer may serve on that employer or an employer may serve on a trade union of employees a notice in the prescribed form setting out proposals for a collective agreement in relation to any industrial matters and inviting the employer or trade union of employees, as the case may be, to negotiate with it in relation to those matters with a view to arriving at a collective agreement.

(2) Notwithstanding subsection (1), no trade union of employees may include in a notice setting out proposals for a collective agreement a proposal in relation to any of the following matters:

(a) the promotion by an employer of any employee from a lower grade or category to a higher grade or category;

(b) the transfer by an employer of an employee within the organisation of an employer's profession, business, trade or work, provided that such transfer does not entail a change to the detriment of an employee in regard to his terms of employment;

(c) the employment by an employer of any person that he may appoint in the event of a vacancy arising in his establishment;

(d) the termination by an employer of the services of an employee by reason of redundancy or by reason of the reorganisation of an employer's profession, business, trade or work or the criteria for such termination;

(e) the dismissal and reinstatement of an employee by an employer in circumstances in which section 35 (2) applies; or

(f) the assignment or allocation by an employer of duties or specific tasks to an employee that are consistent or compatible with the terms of his employment.

Acceptance of invitation to negotiate

18. An employer or a trade union upon whom a notice under section 17 has been served may serve on the trade union or employer by whom the notice was served an acceptance of the invitation to negotiate.

Non-acceptance of invitation to negotiate

19. —(1) Where, within 7 days after service of a notice under section 17, a trade union or employer upon whom it was served has not served an acceptance under section 18 the employer or trade union by whom the notice was served may notify the Commissioner.

(2) Upon receipt of a notification under subsection (1) the Commissioner shall consult, or direct a conciliation officer to consult, with the employer or trade union which has not served an acceptance with a view to persuading that employer or trade union to accept the invitation.

(3) Where, after consultation with an employer or trade union on whom an invitation to negotiate has been served, the Commissioner is satisfied that the employer or trade union refuses to

negotiate he shall notify the Minister and, unless the Minister otherwise directs, the Registrar that a trade dispute exists.

Conciliation

20. —(1) If after the expiration of 14 days from the date of service of a notice under section 17 or, where the notice has been served on more than one employer or trade union on different dates, from the latest of those dates, a collective agreement has not been reached between all the trade unions and employers by whom and upon whom the notice was served as to all the industrial matters set out in the invitation and a memorandum of its terms delivered to the Registrar, any party to the negotiations may notify the Commissioner.

(2) Upon receiving a notification under subsection (1) the Commissioner may consult, or direct a conciliation officer to consult, with the employers and trade unions concerned in an endeavour to assist them to reach agreement by conciliation.

Notification of trade disputes

21. Where the Commissioner is of the opinion —

(a) at any time after the expiration of 7 days after consultation has begun under section 20 that the negotiations are unlikely to lead to a collective agreement registered under this Act as to all the industrial matters which are the subject of the negotiations; or

(b) upon receiving a notification under section 20 that it is unlikely that conciliation will assist the parties to the negotiations to reach agreement,

he shall notify the Minister and, unless the Minister otherwise directs, the Registrar that a trade dispute exists.

Compulsory conferences

22. —(1) The Minister may, where he considers it possible that any trade dispute may be settled by conciliation or further conciliation, direct a person, whether engaged in or connected with the trade dispute or not, to attend at a time and place specified in the direction at a conference presided over by the Minister or such person as the Minister directs.

(2) A direction under this section may be given orally or in writing signed by the Minister.

(3) Except as otherwise directed by the Minister or presiding person a conference shall be held in private.

(4) A person who, on being directed under subsection (1), fails without lawful excuse to attend a conference or who, on being directed to continue his attendance at a conference by the Minister or presiding person, fails without lawful excuse to do so shall be guilty of an offence and shall be liable on conviction by a District Court to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Procedure as to notification

23. —(1) A notification by the Commissioner under this Part that a trade dispute exists shall contain —

(a) a statement of the parties to the trade dispute;

(b) the matters in dispute so far as they are known to the Commissioner; and

(c) where the trade dispute is notified in accordance with section 19, the reasons for the refusal to negotiate so far as they are known to the Commissioner.

(2) The Registrar shall, upon receiving a notification under this Part, forthwith bring it to the notice of the President.

Collective agreements

24. —(1) If a collective agreement is arrived at, a memorandum of its terms shall be —

(a) made in writing and signed by or on behalf of the parties to the agreement; and

(b) delivered within one week thereof to the Registrar who, upon receiving it, shall forthwith bring it to the notice of a Court for certification.

(2) The Court may in its discretion —

(a) refuse to certify a memorandum delivered under subsection (1) if it is of the opinion that it is not in the public interest that the collective agreement should be certified or if it is of the opinion

that the memorandum does not set out satisfactorily or adequately the terms of the collective agreement between the parties and shall refuse to do so if the agreement does not comply with subsection (5) or section 25; and

(b) before certifying a memorandum delivered under subsection (1), require that such part or parts thereof shall be amended satisfactorily or adequately in any manner which the Court considers expedient to comply with the provisions of this Act or any regulations made thereunder or any other written law or with any direction of the Court.

(3) If any party to the collective agreement refuses to carry out such request the Court may, notwithstanding any other power exercisable under this Act, amend the memorandum in the manner required under subsection (2) (b) before proceeding to certify the memorandum.

(4) The Court may in its discretion afford the parties an opportunity to be heard before proceeding to amend the memorandum under subsection (3).

(5) A collective agreement shall —

(a) specify the period during which it shall continue in force which period shall be not less than 2 years or more than 3 years from the date on which it is expressed to commence; and

(b) unless the Court considers such provision would be inappropriate, make provision for the settlement of disputes between the parties to the agreement while the agreement is in force arising out of the operation of the agreement including provision for the reference of such disputes to a referee.

[29/72]

(6) The referee mentioned in subsection (5) (b) shall be a person to be chosen in a manner provided by the agreement from among the persons referred to in section 43 (3) and whose decision shall have effect as if it were a term of the agreement.

(7) The memorandum when certified by the Court shall be deposited with and registered by the Registrar.

(8) Any person who or any trade union which —

(a) enters into a collective agreement, which is specified to continue in force for less than 2 years or more than 3 years from the date on which it is expressed to commence;

(b) delivers to the Registrar a memorandum which does not contain all the terms of the agreement entered into by him or it; or

(c) fails or neglects to bring a collective agreement or any of the terms of such agreement entered into by him or it to the notice of a Court in accordance with the provisions of this Act, shall be guilty of an offence.

[29/72]

Restrictions on collective agreements in certain new undertakings

25. —(1) No collective agreement to which this section applies shall contain provisions with regard to terms and conditions of service that are more favourable to employees than those contained in Part IV of the Employment Act (Cap. 91), unless such provisions are approved by the Minister after considering any representations in that regard made by an employer and a trade union representing his employees.

(2) The Minister may, before making a decision on any representations, by writing under his hand request a Court to inquire and report to him whether it is desirable that any such representations should be allowed and, if so, whether with or without modification.

(3) This section shall apply to collective agreements made between an employer and a trade union representing his employees in respect of, or in relation to —

(a) an industrial undertaking that has commenced or commences operation in Singapore on or after 1st January 1968;

(b) such other undertaking that has commenced or commences operation in Singapore on or after 1st January 1968 as the Minister may approve for the purposes of this section.

(4) This section shall apply to undertakings specified in subsection (3) for a period of 5 years from the date the undertakings commence, or have commenced, operation in Singapore.

(5) The Minister may from time to time by notification in the *Gazette* extend the period mentioned in subsection (4) for such further period or periods as the Minister may decide.

(6) This section shall not apply to a tourism enterprise that commenced operation before 20th November 1997 unless it was a tourist enterprise as defined in the Tourist Promotion Board Act (Cap. 328, 1985 Ed.) in force immediately before that date.

[9/97]

(7) In this section, “industrial undertaking” means —

(a) an undertaking in which articles are manufactured, assembled, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished or in which materials are transformed, including undertakings engaged in ship-building or in the generation, transformation or transmission of electricity or motive power of any kind;

(b) an undertaking engaged in the transport of passengers or goods by road, rail, sea, inland waterways or air, including the handling of goods at docks, quays, wharves, warehouses or airports;

(c) a hotel or catering business, or a tourism enterprise as defined in the Singapore Tourism Board Act (Cap. 305B); and

(d) a pioneer enterprise, as defined under section 3 of the Economic Expansion Incentives (Relief from Income Tax) Act (Cap. 86).

[9/97]

Collective agreement deemed to be an award

26. A collective agreement, a memorandum of which has been certified by a Court, shall be deemed to be an award for the purposes of this Act and shall be binding on —

- (a) the parties to the agreement;
- (b) any successor to, or any transferee, assignee or transmittee of, the undertaking of an employer bound by an agreement, including any corporation which has acquired or taken over the undertaking of such an employer;
- (c) any successor to a trade union of employees which was a party to the agreement; and
- (d) any person or trade union upon whom it is declared to be binding by order made by the Minister under section 41.

Representation in negotiations

27. Notwithstanding the provisions of any other written law, a person may not in negotiations under this Act relating to industrial matters —

- (a) make, offer or receive any proposal in relation to those industrial matters on behalf of or purport to act on behalf of a trade union or employer; or
- (b) be present at any meeting at which employers or representatives of employers or representatives of trade unions negotiate with regard to those industrial matters, unless he is a person qualified in accordance with section 64 to represent an employer or trade union which is a party to the negotiations if the negotiations were proceedings before a Court.

Conciliation and industrial relations officers

28. —(1) The Minister shall appoint such public officers as he thinks fit to be conciliation officers and such persons as he thinks fit to be industrial relations officers for the purposes of this Act and shall from time to time publish in the *Gazette* a list of the names of officers so appointed.

(2) The Minister may make such arrangements as he considers appropriate for the training of persons to be conciliation officers or industrial relations officers and of conciliation officers and industrial relations officers.

Negotiations otherwise than under this Part

29. Any person who or any trade union which enters into negotiations in relation to industrial matters otherwise than in accordance with the provisions of this Part shall be guilty of an offence.

[30]

Interpretation of this Part

30. For the purposes of this Part —

- (a) the Minister for Finance shall be deemed to be the employer of employees of the Government; and
- (b) the Minister shall be deemed to have been notified that a trade dispute exists if a person designated by him for that purpose has been so notified.

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Court to have cognizance of trade disputes

31. A Court shall have cognizance of a trade dispute where —

- (a) all the trade unions and employers who are parties to a trade dispute jointly make a request in writing to the Registrar that the trade dispute be submitted to arbitration;
- (b) a trade union or an employer who is a party to a trade dispute makes a request in writing to the Registrar that under section 50 (1) of the Employment Act (Cap. 91) the trade dispute be submitted to arbitration;
- (c) a trade union which or an employer who is a party to a trade dispute as to any matter arising from or connected with a transfer of employment makes a request in writing, whether before or after the transfer of employment, to the Registrar that the trade dispute be submitted to arbitration;
- (d) the Minister by notice in the *Gazette* directs that the trade dispute be submitted to arbitration; or
- (e) the President of Singapore by proclamation declares that by reason of special circumstances it is essential in the public interest that a trade dispute be submitted to arbitration.

[29/72;36/95]

Court to arbitrate

32. Subject to section 33, a Court shall carefully and expeditiously hear, inquire into and investigate every trade dispute of which it has cognizance and all matters affecting the trade dispute and the just settlement of the dispute and shall determine the dispute by arbitration.

Dispute as to employment in Government service

33. —(1) Where a Court has cognizance of a trade dispute in relation to employment in the service of the Government, the President shall so inform the President of Singapore.

(2) The Court shall not exercise its powers or perform its functions in relation to the trade dispute so far as it relates to that employment except with the approval of the President of Singapore.

Court to have regard to certain matters

34. —(1) In determining a trade dispute a Court may have regard —

- (a) not only to the interests of the persons immediately concerned but to the interests of the community as a whole and in particular the condition of the economy of Singapore; and
- (b) to the recommendations made from time to time by the Minister under section 49 of the Employment Act (Cap. 91) relating to the matters specified in that section.

[29/72;36/95]

(2) In any case where a Court has regard to the recommendations referred to in subsection (1) (b), the Court may vary or set aside any of the terms of a collective agreement or award notwithstanding section 45.

Power to make awards

35. —(1) A Court shall have power in relation to a trade dispute of which it has cognizance to make an award (including an interim award) relating to all or any of the industrial matters in dispute.

(1A) A Court shall not consider a dispute relating to the dismissal of an employee or make an award relating to the reinstatement of an employee except in circumstances arising out of a contravention of section 82.

(2) Notwithstanding subsection (1A), where an employee considers that he has been dismissed without just cause or excuse by his employer, in circumstances other than those arising out of a contravention of section 82, he may, within one month of such dismissal, make, through his trade union, representations in writing to the Minister to be reinstated in his former employment.

(3) The Minister may, before making a decision on any such representations, by writing under his hand request the Commissioner to inquire into the dismissal and report whether in his opinion the dismissal is without just cause or excuse.

(4) The Minister, if he decides to deal with the representations himself, shall before making a decision thereon give an opportunity to the employer to make representations in writing as to the reasons why he considered the dismissal of the employee to be justified.

(5) If, after considering the representations of the trade union and of the employer (if any) and any report made by the Commissioner under subsection (3), the Minister is satisfied that the employee has been dismissed without just cause or excuse he may, notwithstanding any rule of law or agreement to the contrary —

(a) direct the employer to reinstate the employee in his former employment and to pay the employee an amount that is equivalent to the wages that the employee would have earned had he not been dismissed by the employer; or

(b) direct the employer to pay such amount of wages as compensation as may be determined by the Minister.

(5A) The employer shall comply with the direction of the Minister under subsection (5).

(6) The decision of the Minister on any representations made under this section shall be final and conclusive and shall not be challenged in any court or in a Court established under this Act.

(7) Any direction by the Minister under subsection (5) shall operate as a bar to any action for damages by the employee in any court in respect of the wrongful dismissal.

(8) An employer who fails to comply with the direction of the Minister under subsection (5) shall be guilty of an offence and shall be liable on conviction by a District Court to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

(9) Where an amount to be paid under subsection (5) is not paid in accordance with the direction of the Minister and the employer has been convicted of an offence under subsection (8), the amount, or so much thereof as remains unpaid, shall be recoverable by a District Court as if it were a fine and the amount so recovered shall be paid to the employee entitled under the direction.

Award relating to trade dispute over transfer of employment

36. Where the Court has cognizance of a trade dispute between a trade union and an employer arising from or connected with a transfer of employment, the Court's power to make an award relating to the dispute under section 35 shall include the powers —

(a) to delay or prohibit the transfer of employment of an employee who is a member of the trade union; and

(b) to order that the transfer of employment of the employee who is a member of the trade union be subject to such terms as the Court considers just.

[35A
[36/95]

Form of award

37. An award shall be framed in such a manner as best to express the decision of the Court and to avoid unnecessary technicalities.

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Operation of award

38. An award shall not derogate from any right or privilege which an employee has under the provisions of any written law and any term of an award shall, to the extent to which it would so derogate, be null and void.

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Commencement and continuance of award

39. —(1) An award shall have effect from the date of the award unless all parties to the trade dispute who appear or are represented before the Court otherwise agree or the Court otherwise directs.

(2) An award shall, subject to this Act, continue in force for a period to be specified in the award not being more than 3 years from the date upon which the award comes into force or, except in the case of an interim award, less than 2 years from that date.

[29/72]

(3) Where some or all of the persons and trade unions bound by an award, by an agreement registered under section 24, agree that the award or the award as varied by the agreement shall continue in force for a period not being less than 2 years or more than 3 years after the date on which it would otherwise cease to be in force, the award or the award as varied shall as between the parties to the agreement continue in force for such period.

[29/72]

(4) A Court may, whether or not an award has ceased to be in force, on application by a person or trade union bound by the award, order that the award, or the award as varied by the order, shall continue in force for such period, not being less than 2 years or more than 3 years, after the date on which it would otherwise cease to be in force, as is specified in the order.

[29/72]

(5) Where an application has been made under subsection (4) and a notice under section 17 has been served either before or after such application —

(a) the proceedings under subsection (4) shall be suspended until the parties concerned have had the opportunity of negotiating and reaching agreement on the proposals made under section 17;

(b) in the event of failure to reach agreement within 2 months of the date of service of the invitation to negotiate served under section 17, both parties shall notify the Registrar that no agreement has been reached and on such notification the application under subsection (4) shall be deemed to be withdrawn and the Court shall proceed to determine the dispute as if a joint application under section 31 (a) had been made.

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[29/72]

On whom award binding

40. —(1) An award determining a trade dispute shall be binding on —

(a) all parties to the trade dispute who appeared or were represented before the Court;

(b) all parties to the trade dispute who were summoned or notified, either personally or as prescribed by regulations made under this Act, to appear as being parties to the trade dispute;

(c) all trade unions and persons who, having been notified either personally or as prescribed by regulations made under this Act, of the trade dispute and of the fact that they were alleged to be parties to the trade dispute, did not, before the conclusion of the hearing of the trade dispute, satisfy the Court that they were not parties to the trade dispute;

(d) any successor to, or any transferee, assignee or transmittee of, the undertaking of an employer who was a party to the trade dispute or of an employer bound by the award, including any corporation which has acquired or taken over the undertaking of such an employer;

(e) any successor to a trade union which was a party to a trade dispute;

(f) all trade unions and persons upon whom the award is declared to be binding by order made by the Minister under section 41; and

(g) all members of a trade union bound by the award.

[36/95]

(2) Where an employer bound by an award has ceased to carry on an undertaking on any premises and another person commences to carry on an undertaking of the same kind on the

same premises that person shall, for the purpose of this section, be deemed to be a successor to the undertaking of the employer bound by the award.

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[36/95]

Minister may extend operation of award

41. —(1) The Minister may, by writing under his hand, request a Court to inquire and report to him —

(a) whether it is desirable in the public interest that the operation of an award be extended so that it shall be binding on any person or trade union or any class or description of persons or of trade unions not already bound by the award, either with or without modifications; and
(b) if so, upon what person or trade union or classes or descriptions of persons or of trade unions and, where applicable, with what modifications.

(2) Where a request is made to a Court under subsection (1) the Court shall inquire into and report to the Minister upon the questions set out in the request.

(3) The Court shall not report that it is desirable that the operation of an award be extended so as to be binding on any person or trade union or any class or description of persons or of trade unions unless it has —

(a) caused to be published in the *Gazette* and in such other publications (if any) as it thinks fit a notification addressed to that person or trade union or that class or description of persons or of trade unions stating the questions into which the Court has been requested to inquire and specifying a time and place at which the Court will hear trade unions and persons interested and desiring to be heard; and

(b) heard all interested trade unions and persons appearing or represented before it.

(4) Where the Court reports that in its opinion it is desirable that the operation of an award should be extended there shall be included in the report a statement of the terms of a proposed order appropriate to give effect to the opinion of the Court.

(5) The Minister may, if he considers it desirable to do so, make an order in the terms proposed by the Court.

(6) An order made by the Minister under this section shall be published in the *Gazette* and subject to subsection (7) shall have effect as if it were an award.

(7) The Minister may at any time by notification in the *Gazette* revoke an order made under this section.

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Contents of award

42. In making an award in relation to a trade dispute, a Court —

(a) shall not be restricted to the specific relief claimed by the parties or to the demands made by the parties in the course of the trade dispute but may include in the award any matter or thing which it thinks expedient for the purpose of settling the trade dispute or of preventing further trade disputes and may in fixing wages, salaries, allowances or other remuneration give effect to its decision by prescribing time rates, piecework rates, salary scales, bonus payments, severance pay, or retirement allowances or by such other prescription as it considers appropriate;

(b) notwithstanding paragraph (a), in respect of employers and employees to whom section 25 applies, shall not include in its award provisions with regard to terms and conditions of service that are more favourable to employees than those contained in Part IV of the Employment Act (Cap. 91) unless the Minister has approved those provisions under that section; and

(c) may include provisions requiring an employer bound by the award to keep records relating to employees entitled to the benefit of the award and prescribing the form of such records and the information to be recorded.

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Award to provide for referee

43. —(1) A Court shall, unless it is of the opinion that it would be inappropriate to do so, include in every award a provision for the settlement of disputes between persons and trade unions bound by the award while the award is in force arising out of the operation of the award including provision for the reference of those disputes to a referee.

(2) The referee mentioned in subsection (1) shall be a person to be chosen in a manner provided by the award from among the persons referred to in subsection (3) and whose decision shall have effect as if it were a term of the award.

(3) The Minister shall appoint persons whom he considers suitable as referees and the names of such persons shall be published from time to time in the *Gazette* and those referees shall be eligible for reappointment.

(4) The appointment of referees shall be liable to be revoked at any time by the Minister but they shall, unless their appointment is so revoked or they resign in the meantime, hold office for a term of 2 years.

(5) The decision of the referee under subsection (1) shall be given within 3 weeks after the completion of the hearing of the trade dispute or matter unless the President otherwise directs.

(6) An appeal shall lie from the decision of the referee to the Court and the decision of the Court on such appeal shall be final and conclusive.

(7) An appeal under subsection (6) shall be made in the prescribed manner within 14 days from the date of the decision of the referee.

[42]

Interpretation of award

44. —(1) A Court may, upon application made by a trade union or person bound by an award, give an interpretation of the award.

(2) An interpretation given by a Court shall be final and conclusive and shall be binding on all trade unions and persons bound by the award who have been given an opportunity of being heard by the Court.

[43]

Setting aside and variation of award

45. —(1) Subject to subsections (2) and (3), a Court may, upon application by any person or trade union bound by an award, by order vary or set aside any of the terms of an award and shall vary any of the terms of an award if it considers it desirable to do so for the purpose of removing ambiguity or uncertainty.

(2) During the period for which an award is in force a Court shall not, except for the purpose of removing ambiguity or uncertainty, vary or set aside any of the terms of an award except where the President certifies that by reason of exceptional circumstances it is desirable to do so.

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(3) No award of a Court determining a trade dispute shall be varied or set aside except for the purpose of removing ambiguity or uncertainty.

(4) Where an application for an order to vary or set aside any of the terms of an award has been made, under subsection (1), by any person or trade union bound by an award with the prior agreement of the other party affected by the application the powers of the Court under this section shall be exercisable by the Court constituted by the President alone.

[44]

Variation of agreement to conform with award

46. Upon application made to a Court by a party to a collective agreement the Court may order that such agreement be varied so that it may be in conformity with the terms of any award made after the commencement of the agreement.

[45]

Award to be final

47. —(1) Subject to the provisions of this Act, an award shall be final and conclusive.

(2) No award or decision or order of a Court or the President or a referee shall be challenged, appealed against, reviewed, quashed, or called in question in any court and shall not be subject to certiorari, prohibition, mandamus or injunction in any court on any account.

Award to be available at office of Registrar

48. —(1) Every award and every order varying an award or affecting the operation of an award shall be deposited with and registered by the Registrar.

(2) The Registrar shall cause copies to be made of every award and of every such order in Malay, English, Chinese and Tamil and copies so made shall be forwarded to the Commissioner and shall be open to inspection at the office of the Registrar.

(3) A person bound by an award or a person authorised by an employer or a trade union bound by an award shall upon application to the Registrar be allowed a reasonable opportunity of comparing a copy of an award or order with the original.

Evidence of award

49. An office copy of an award or order of a Court certified to be true under the hand of the Registrar shall be received in all courts as evidence of the award or order without proof of the signature of the Registrar.

Exhibition of award

50. —(1) An employer bound by an award shall cause true copies of the award and of all orders varying the award, or true copies of the award as varied from time to time, in Malay, English, Chinese and Tamil, to be exhibited and kept exhibited —

(a) at or near the entrance to any premises in or upon which employees bound by the award are employed by him; and

(b) at such other place to which employees employed by him have access as may be specified in the award,

in such a position as to be conspicuous to and easily read by them.

(2) An employer who fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction by a Magistrate's Court to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months or to both.

Contracts contrary to award

51. An employer or a person acting as an agent for an employer who makes a contract or agreement for the employment of an employee on terms and conditions less favourable to the employee than the terms and conditions of an award binding on the employer and employee shall be guilty of an offence and shall be liable on conviction by a District Court to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Penalties for breach of award

52. —(1) Any trade union or person bound by an award who has committed any breach or non-observance of any term of an award shall be guilty of an offence and shall be liable on conviction by a Magistrate's Court to a fine not exceeding —

(a) in the case of a trade union or an employer, \$1,000;

(b) in the case of an officer of a trade union, \$500; and

(c) in any other case, \$100.

(2) Where in any proceedings against an employer under this section it appears to the Magistrate's Court that an employee employed by that employer has not been paid an amount which he is entitled to be paid by way of wages or otherwise in accordance with an award, the Court may —

(a) order that the employer shall pay to the employee the amount due to him either in a lump sum or by instalments; and

(b) fix the date or dates on which the lump sum or instalments shall be paid.

(3) Where an amount or instalment ordered to be paid under subsection (2) is not paid on the date fixed by the order the amount or so much thereof as then remains unpaid shall forthwith be

recoverable as if it were a fine and the amount so recovered shall be paid to the employee entitled under the order.

Recovery of wages under award

53. An employee bound by an award may recover in any court of competent jurisdiction any amount which he is entitled to be paid by way of wages or otherwise in accordance with the award.

Commissioner's power to inquire into complaints

54. —(1) The Commissioner may —

(a) inquire into and decide any dispute between an employee and an employer bound by an award as to the employee's entitlement to any payment by way of wages or otherwise in accordance with the award; and

(b) make an order in the prescribed form for the payment by either party of such sum of money as he considers just without limitation of the amount thereof.

(2) The provisions of the Employment Act (Cap. 91) relating to appeals from decisions and orders of the Commissioner under Part XV of that Act and the mode of procedure for the making and hearing of claims under that Part and the joining of claims shall apply to decisions, orders and claims made under this section.

(3) No fees shall be charged by the Commissioner in respect of processes issued by him under this section.

(4) All orders made by the Commissioner shall, notwithstanding that the same may in respect of the amount or value be in excess of its ordinary jurisdiction, be enforced by a District Court in the same manner as a judgment of that Court and all necessary processes may be served by that Court on behalf of the Commissioner.

(5) No sale of immovable property shall for the purposes of such enforcement be ordered except by the High Court.

(6) If any person complains to the Commissioner that an order made under subsection (1) has not been complied with —

(a) the Commissioner shall take such action as is appropriate for the enforcement of the order; and

(b) no court fees or deposits shall be chargeable in the first instance in respect of the enforcement of the order but the same shall be paid by the person against whom the order is enforced.

(7) Whenever any person complains to the Minister, the Parliamentary Secretary to the Minister or to the Commissioner that a trade union or person bound by an award has committed a breach or non-observance of any term of an award, or where the Minister, the Parliamentary Secretary or the Commissioner has reason to believe that such a breach or non-observance has occurred, or where the Minister, the Parliamentary Secretary or the Commissioner wishes to inquire into any matter for which provision is made by an award or any dispute as to such matter, the Minister, the Parliamentary Secretary or the Commissioner may summon any other person who he has reason to believe can give information respecting the matter.

(8) The person so summoned shall be legally bound to attend at the time and place specified in the summons and to answer truthfully all questions which the Minister, the Parliamentary Secretary or the Commissioner may put to him.

(9) Any person who in any way wilfully obstructs the service of or obedience to such summons, and any person summoned who neglects to attend as required by such summons, and any person who commits in respect of any such inquiry or complaint any offence described in Chapter X of the Penal Code (Cap. 224) shall be punished as provided in that Chapter.

(10) If, upon inquiry under subsection (7), the Commissioner is informed by the Minister or by the Parliamentary Secretary to the Minister or is of the opinion that a breach or non-observance of any term of an award has been committed he shall have the same powers to institute proceedings as he has under Part XV of the Employment Act (Cap. 91) upon inquiry under that

Part and the provisions of that Act relating to proceedings instituted by him under that Act shall apply to and in relation to proceedings instituted by him under this subsection.

Inspection

55. —(1) An inspecting officer may —

(a) enter without previous notice at any hour of the day or night all places of employment where he has reason to believe that an employee entitled to the benefit of an award is employed and inspect any work, material, machinery, appliance or article therein; and

(b) make such inquiries as he may think fit relative to the observance or non-observance of the provisions of this Act and of awards and report to the Commissioner thereon.

(2) On the occasion of an inspection, an inspecting officer shall —

(a) show his credentials if requested to do so; and

(b) notify the employer or his representative of his presence unless he considers that such a notification may be prejudicial to the performance of his duties.

(3) In the course of an inspection, an inspecting officer may —

(a) put questions concerning an employee whom he believes to be entitled to the benefit of an award to the employee or his employer or any other person whom he considers it desirable to question and require such person to answer such questions; and

(b) require the employer to produce before him any books, documents or other records which he is required by an award to keep or which relate to an employee entitled to the benefit of an award.

(4) An inspecting officer who otherwise than in the performance of his duties reveals any manufacturing or commercial secret which may at any time come to his knowledge in the course of his duties shall be guilty of an offence.

(5) A person who —

(a) hinders or obstructs an inspecting officer in the exercise of the powers conferred by this section;

(b) omits to answer any question which an inspecting officer requires him to answer;

(c) makes to an inspecting officer a statement either orally or in writing which is false or misleading in any particular; or

(d) fails to produce any book, document or record which he is required by an inspecting officer to produce,

shall be guilty of an offence and shall be liable on conviction by a Magistrate's Court to a fine not exceeding \$500 or to imprisonment for a term not exceeding 6 months or to both.

Powers of Court

56. A Court shall have power —

(a) to order compliance with an award proved to have been broken or not observed; and

(b) to enjoin a trade union or person from committing or continuing a contravention of any provision of this Act or a breach or non-observance of an award.

Contempt of court

57. —(1) A Court shall have the same power to punish as contempt of court a failure to comply with an order of the Court made under section 56 as is possessed by the High Court in respect of a failure to comply with an order of the High Court.

(2) The maximum penalty which a Court is empowered to impose under this section shall be —

(a) where the contempt was committed by a trade union, a fine of \$4,000;

(b) where the contempt was committed by an employer or an officer of a trade union, a fine of \$2,000 or imprisonment for one year or both; or

(c) in any other case, a fine of \$500 and in default of payment of the fine imprisonment for 6 months.

(3) A Court shall have power to punish an act or omission as a contempt of the Court although a penalty is provided in respect of that act or omission under some other provision of this Act or under any other written law.

(4) For the purposes of enforcing the payment of any fine imposed or giving effect to any order of imprisonment the President shall have the powers of a Judge of the High Court.

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(5) Where a Court punishes as contempt a failure by a person to comply with an order of the Court, that person shall, during a period of 2 years from the date on which the punishment is imposed, or such lesser period as the Court may determine, be ineligible to be nominated for election as an officer of a trade union or a branch of a trade union or a federation of trade unions or to act as such an officer.

(6) A person who acts as an officer of a trade union, or a branch of a trade union or a federation of trade unions while he is ineligible by reason of subsection (5) shall be guilty of an offence and shall be liable on conviction by a District Court to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both, and for a second or subsequent offence shall be liable to imprisonment for a term not less than 6 months and not exceeding 3 years.

Suspension or cancellation of award

58. —(1) If it appears to a Court that a number of members of a trade union sufficiently large to form a substantial part of its membership refuse to accept employment in accordance with an award the Court may, subject to such conditions as it thinks fit, by order cancel or suspend for such period as it thinks fit all or any of the terms of the award so far as the award applies to or is in favour of the trade union or its members.

(2) The suspension or cancellation of the award may be limited to specified persons or classes of persons or to a specified branch of the trade union or to specified localities.

(3) During the period of suspension of an award a person affected as a present or past member of the trade union by the suspension shall not be entitled to the benefit of any other award.

Exercise of jurisdiction under certain sections

59. —(1) The powers of a Court under sections 24, 25, 35, 39 (4), 41, 43, 44, 56, 57, 58 and 82 shall be exercisable by the Court constituted by the President alone.

(2) An application to a Court for an order under section 56, 57 or 58 may be made by any trade union or person interested or by the Commissioner, the Registrar or the Attorney-General.

Procedure of Courts

60. —(1) In the hearing and determination of a trade dispute or in any other proceedings before a Court —

(a) the procedure of the Court shall, subject to the provisions of this Act and any regulations made thereunder, be within the discretion of the Court;

(b) the Court shall not be bound to act in a formal manner and shall not be bound by the Evidence Act (Cap. 97) but may inform itself on any matter in such manner as it thinks just; and

(c) the Court shall act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

(2) The Court may determine the periods which are reasonably necessary for the fair and adequate presentation of the respective cases of the parties to the trade dispute or other proceedings and require that those cases be presented within the respective periods so determined.

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

Particular powers of Courts

61. A Court may in relation to a trade dispute of which it has cognizance or any other matter before it —

(a) take evidence on oath or affirmation;

(b) summon before it the parties to the trade dispute or matter and witnesses and compel the production before it of books, papers, documents and things;

- (c) hear and determine the trade dispute or matter in the absence of a party who has been summoned or served with notice to appear;
- (d) conduct its proceedings or any part of its proceedings in private;
- (e) refer a matter to an expert and accept his report as evidence;
- (f) direct parties to be joined or struck out;
- (g) order the reinstatement of a dismissed employee or grant such other relief as it may consider desirable;
- (h) dismiss the trade dispute or matter or part thereof if it appears that it is trivial or that further proceedings are not necessary or desirable in the public interest or that, having regard to the provisions of any relevant award made by a Court, or of any relevant collective agreement registered under this Act or made before 15th September 1960 and not so registered, the trade dispute or matter or part thereof ought to be dismissed; and
- (i) 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 matter.

Exclusion of evidence as to certain matters

62. —(1) Where a trade dispute relates to matters as to which negotiations have taken place in accordance with this Act the parties to the dispute may agree upon and present to the Court a written statement relating to the negotiations but except for such statement no evidence shall be given in proceedings in the Court as to the negotiations.

(2) In proceedings before the Court evidence shall not be given with regard to any offer relating to industrial matters made without prejudice by any person or trade union without the consent of that person or trade union.

Intervention by Attorney-General

63. —(1) The Attorney-General may, where he is of the opinion that a dispute of which a Court has cognizance relates to a matter of public importance and has caused a notification to be published in the *Gazette* stating that he is of that opinion and that he intends to intervene in proceedings before the Court in relation to the dispute, intervene in those proceedings by causing a copy of the notification to be served on the Registrar.

(2) Where the Attorney-General has intervened in proceedings before the Court, the Court may grant leave to any trade union or person to intervene in those proceedings.

Representation before Courts

64. —(1) In proceedings before a Court a party or intervener —

(a) being a trade union may be represented by an officer of the trade union or, in the case of a trade union of employees, by an officer of the trade union or by an industrial relations officer selected by the trade union; and

(b) not being a trade union, may be represented —

(i) by an employee of that party or intervener; or

(ii) by an officer of a trade union of which that party or intervener is a member,

but shall not be represented by an advocate and solicitor or paid agent except in proceedings under section 57 or by leave of the Court in proceedings in which the Attorney-General has intervened.

(2) A person who is disqualified under subsection (1) from representing a party or intervener in proceedings before the Court shall not in those proceedings communicate, in the face or hearing of the Court, with a party or intervener or a person representing a party or intervener.

(3) For the purposes of this section —

(a) “officer”, in relation to a trade union, includes for the purposes of any proceedings before the Court a person appointed by the body, by whatever name called, to which the management of the affairs of the union is entrusted, to represent the trade union in those proceedings; and

(b) a person who within 6 months before the commencement of any proceedings before the Court has been practising as an advocate and solicitor shall be deemed not to be an officer of a trade union for the purposes of those proceedings or an employee of a party or intervener.

Questions of law

65. —(1) A Court may refer a question of law arising in relation to any trade dispute or matter to the Attorney-General for his opinion.

(2) Before referring a question of law to the Attorney-General in accordance with subsection (1) the Court shall inform the parties to the trade dispute or matter in relation to which the question arises of the question which it proposes to refer and allow the parties a reasonable opportunity to make written submissions relating to the question.

(3) Submissions made in accordance with subsection (2) shall be referred to the Attorney-General and the Attorney-General shall, after considering those submissions, furnish his opinion to the Court.

(4) Notwithstanding a reference of a question of law to the Attorney-General (not being a question whether the Court may exercise powers under this Act in relation to a trade dispute or matter), the Court may make an award or order in relation to the trade dispute or matter in which the question arose.

(5) Upon receiving the opinion of the Attorney-General, the Court —

(a) may, if it has not made an award or order in the trade dispute or matter in which the question arose, make an award or order not inconsistent with the opinion; or

(b) shall, if it has made an award or order in the trade dispute or matter, vary the award or order in such a way as will make it consistent with the opinion.

Authorised person to take evidence

66. A Court may authorise a person to take evidence on its behalf, with such limitations (if any) as the Court directs, in relation to a trade dispute of which it has cognizance and that person shall have all the powers of the Court to secure the attendance of witnesses and to take evidence on oath or affirmation.

Powers of inspection

67. —(1) Where a Court has cognizance of a trade dispute the President, a member who constitutes the Court in relation to the dispute or a person authorised by the President, may at any time during working hours —

(a) enter any building, ship, vessel, place or premises in which work is being or has been done or commenced, or a matter or thing is taking or has taken place, to which the dispute relates; and

(b) to the extent and for the purposes named in the authority, inspect or view any work, material, machinery, appliance, article or thing therein and interview any employee engaged therein.

(2) A person who hinders or obstructs a person in the exercise of the power conferred by subsection (1) or makes to a person exercising a power conferred by that subsection a statement either orally or in writing which is false or misleading in any particular shall be guilty of an offence and shall be liable on conviction by a Magistrate's Court to a fine not exceeding \$500 or to imprisonment for a term not exceeding 6 months or to both.

Decisions of Court

68. —(1) Where a Court constituted otherwise than by the President alone is divided in opinion on a question, the question shall be decided according to the decision of the majority of those constituting the Court or, if there is no such majority decision, according to the decision of the President.

(2) A decision of a Court shall be signed by the President and shall be delivered by him or by the Registrar by direction of the President.

(3) The decision of a Court upon a trade dispute or matter shall be given within 2 weeks after the completion of the hearing of the dispute or matter or within such extended time as in special circumstances the Court considers to be required for the proper consideration of the dispute or matter.

Offences in relation to Court

69. —(1) A person who —

- (a) creates a disturbance or takes part in creating or continuing a disturbance in or near any place in which a Court is sitting;
- (b) interrupts the proceedings of a Court;
- (c) wilfully insults or disturbs the President or a member constituting a Court when exercising powers or functions under this Act; or
- (d) by writing or speech uses words calculated —
 - (i) to influence improperly the President or a member constituting a Court in the exercise of his powers and functions under this Act; or
 - (ii) to bring a Court into disrepute,

shall be guilty of an offence and shall be liable on conviction by a District Court to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) A reference in subsection (1) to a Court or to the President shall be read as including a reference to a person authorised in accordance with section 66 to take evidence on behalf of a Court.

Contempt by witness

70. —(1) A person who has been summoned to appear, or who has appeared, before a Court as a witness and who without just cause, proof whereof shall be upon him —

- (a) disobeys the summons to appear;
- (b) refuses or fails to be sworn as a witness;
- (c) refuses or fails to answer any question which he is required by the Court to answer; or
- (d) refuses or fails to produce any book, paper, document or thing which he is required by the Court to produce,

shall be guilty of an offence and shall be liable on conviction by a District Court to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) A reference in subsection (1) to a Court shall be read as including a reference to a person authorised in accordance with section 66 to take evidence on behalf of a Court.

Application of Penal Code

71. Proceedings before a Court shall be deemed to be judicial proceedings for the purposes of the Penal Code (Cap. 224) and the Court shall be deemed to be a court of justice within the meaning of the Penal Code.

Trade secrets, etc., tendered in evidence

72. —(1) In any proceedings before a Court objection may be taken that any information or any book, paper or document tendered as evidence relates to a trade secret or to the profits or financial position of a witness or party by that witness or party or the person entitled to the trade secret.

(2) Where after considering any such objection the Court directs that information so relating shall be given in evidence —

- (a) that information shall not except with the permission of the President be disclosed or published in any newspaper or otherwise; and
- (b) that evidence shall, if the witness or party or the person entitled to the trade secret so requests, be taken in private and no person who is not expressly authorised by the Court to be present shall be present during the taking of that evidence.

(3) Where evidence is taken in private a person representing a party to the proceedings shall have the right to be present unless the Court otherwise orders.

(4) Where after considering any such objection the Court directs that any book, paper or document relating to any trade secret or the profits or financial position of a witness or party or person shall be produced before it —

- (a) the President shall have the custody of such book, paper or document and may retain it for such reasonable period as he thinks fit;

(b) the Court may refer such book, paper or document to an accountant appointed by the Court who may report to the Court whether or not his examination of it supports the evidence given but shall not otherwise disclose the contents thereof;

(c) the President shall not without the consent of the witness or party or person entitled to the trade secret permit such book, paper or document to be inspected by any person other than the members of the Court; and

(d) a person who inspects such book, paper or document shall not disclose or publish the contents of such book, paper or document.

(5) A Court may direct that any evidence given in proceedings before it or the contents of any book, paper or document produced before it shall not be published.

(6) Any person who discloses or publishes any information in contravention of this section or of any direction or order given or made thereunder shall be guilty of an offence and shall be liable on conviction by a District Court to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Inspection of books, etc.

73. Subject to section 72, all books, papers, documents and things produced in evidence before a Court may be inspected by the Court or by such parties as the Court allows.

Appointment of board of inquiry

74. —(1) The Minister may, by notification in the *Gazette*, appoint a board of inquiry and direct the board to inquire into and report to him upon a matter defined in the notification being a matter included within the definition of industrial matters in section 2.

(2) The Minister shall not exercise the power conferred by subsection (1) in relation to a matter unless he is of the opinion that there are special circumstances by reason of which the matter would not otherwise be satisfactorily regulated by collective agreements or awards made under this Act.

Constitution of board of inquiry

75. —(1) A board of inquiry shall consist of a chairman and such other persons as the Minister thinks fit to appoint or may, if the Minister thinks fit, consist of one person appointed by the Minister.

(2) A board of inquiry may act notwithstanding any vacancy in its number.

Procedure and powers of board

76. —(1) The Minister may make regulations as to the procedure of any board of inquiry including regulations as to summoning and payment of expenses of witnesses, quorum and the appointment of committees and enabling the board to call for such documents as the board may determine to be relevant to the subject matter of the inquiry.

(2) Provision shall be made by the regulations with respect to the cases in which a person may appear by an advocate and solicitor in proceedings before a board of inquiry and except as provided by those regulations no person shall be entitled to appear in any proceedings by an advocate and solicitor.

(3) A board of inquiry may, if and to such extent as may be authorised by regulations made under this Act, by order require any person who appears to the board to have any knowledge of the subject-matter of the inquiry to furnish in writing or otherwise such particulars in relation thereto as the board may require and, where necessary, to attend before the board and give evidence on oath or affirmation.

Reports

77. —(1) A board of inquiry shall, either in public or in private at its discretion, inquire into any matters referred to it and report thereon to the Minister.

(2) A board of inquiry may if it thinks fit make interim reports.

(3) Any report of a board of inquiry, and any minority report, shall be presented as soon as possible to Parliament.

(4) The Minister may, whether before or after any such report has been presented to Parliament, publish or cause to be published from time to time in such manner as he thinks fit any information obtained or conclusion arrived at by the board of inquiry as a result or in the course of its inquiry.

(5) There shall not be included in any report or publication made or authorised by the board of inquiry or the Minister any information obtained by the board in the course of its inquiry as to any trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through evidence given at the inquiry except with the consent of the trade union or of the person, firm or company in question.

(6) Any individual member of the board of inquiry or any person concerned in the inquiry who, without such consent, discloses any such information shall be guilty of an offence.