



BERMUDA

LABOUR RELATIONS ACT 1975

1975 : 15

TABLE OF CONTENTS

PART I

- 1 Interpretation
- 2 Application of Act

PART II

ARBITRATION, SETTLEMENT AND INQUIRY IN LABOUR DISPUTES

- 3 Labour disputes may be reported to the Director for conciliation and settlement
- 4 Boards of Inquiry
- 5 Reports of Boards of Inquiry; publication

PART IIA

SPECIAL PROVISIONS RELATING TO ESSENTIAL INDUSTRIES

- 5A Application to essential industries
- 5B Board established
- 5C Minister to consult before appointing members
- 5D Members appointed
- 5E Chairman and Deputy Chairman
- 5F Duration of appointment
- 5G Incapacity of member or assessor
- 5H Award
- 5I Resignation of members
- 5J Secretary to Board
- 5K Board to regulate procedure and proceedings
- 5L Fees and allowance
- 5M Report of labour dispute or difference
- 5N Matter referred to mediator
- 5O Matter referred to Board
- 5P Board's power to receive information

LABOUR RELATIONS ACT 1975

- 5Q Time within which Board to make an award
- 5R Award binding
- 5S Question as to interpretation of an award
- 5T Unfair industrial practice
- 5U Complaint to Board
- 5V Failure to comply with grievance procedure
- 5W Remedies
- 5X Enforcement and recovery of an award
- 5Y Enforcement of judgement, order or award against trade union

PART III ESSENTIAL SERVICES

- 6 Application of Part III
- 7 Form of report of labour dispute in essential services
- 8 Reference to Permanent Arbitration Tribunal
- 9 Restriction on strikes in an essential service
- 10 Duty of employers to comply with rules as to notice
- 11 Reference to Tribunal for advice
- 12 Awards in essential services may be made binding
- 13 Certificates by Director

PART IV PERMANENT ARBITRATION TRIBUNAL

- 14 Establishment and constitution of Permanent Arbitration Tribunal
- 15 Functions of Tribunal
- 16 Assessors

PART V ARBITRATION TRIBUNALS AND BOARDS OF INQUIRY

- 17 Interpretation
- 18 Award to be made without delay
- 19 Vacancies in a Tribunal
- 20 Power of Tribunal or Board of Inquiry to obtain information
- 21 Appearance by counsel
- 22 Power of Tribunal or Board of Inquiry to exclude public
- 23 Award of Tribunal not to conflict with any Act
- 24 Publication of award
- 25 Interpretation of award and arbitral errors
- 26 Award may be retrospective
- 27 Award to require concurrence of majority of arbitrators
- 28 Regulation of proceedings
- 29 Arbitration Act 1986 not to apply
- 30 Restriction on liability for interfering with another person's business
- 31 Conspiracy
- 32 Peaceful picketing
- 33 Prevention of intimidation
- 34 Unlawful lock-outs, strikes

LABOUR RELATIONS ACT 1975

- 35 Protection of persons refusing to take part in illegal lock-outs or strikes
- 36 Breach of contract of service endangering life or property
- 37 Trade unions may be prosecuted for offences against this Act
- 38 Offences by corporations
- 39 Consent of Director of Public Prosecutions
- 40 Relief by way of injunction against contravention of this Act
- 41 Rules
- 42 Repeals and amendments *[omitted]*
- 43 Commencement *[omitted]*

FIRST SCHEDULE
ESSENTIAL SERVICES

SECOND SCHEDULE
PICKETING RULES

THIRD SCHEDULE
AMENDMENTS TO THE TRADE UNION ACT 1965

FOURTH SCHEDULE
Business of an Hotel

[preamble and words of enactment omitted]

PART I

Interpretation

- 1 (1) In this Act, unless the context otherwise requires—
- “arbitration tribunal” means any person or body of persons to whom a dispute may be referred for settlement in accordance with section 3(3)(b) other than the Permanent Arbitration Tribunal;
- “Board” means the Essential Industries Disputes Settlement Board established under Part IIA;
- “collective agreement” means any agreement or arrangement made (in whatever way and in whatever form) between—
- (a) a trade union and an employer; or
 - (b) a trade union and a trade union;
- “Director” means the person holding the public office of Director of Workforce Development;
- “essential services” are the services specified in the First Schedule;
- “hotel” has the meaning assigned to it by the Hotels (Licensing and Control) Act 1969 *[title 17 item 2]*;

LABOUR RELATIONS ACT 1975

“irregular industrial action short of a strike” means any concerted course of conduct (other than a strike) which, in contemplation or furtherance of a labour dispute—

- (a) is carried on by a group of workmen with the intention of preventing, reducing or otherwise interfering with the production of goods or the provision of services; and
- (b) in the case of some or all of them, is carried on in breach of their contracts of employment or otherwise in breach of their terms and conditions of service;

“labour dispute” means a dispute between—

- (a) an employer, or trade union on his behalf, and one or more workmen, or trade union on his or their behalf; or
- (b) workmen, or a trade union on their behalf, and workmen, or a trade union on their behalf,

where the dispute relates wholly or mainly to one or more of the following—

- (i) terms and conditions of employment, or the physical conditions in which workmen are required to work; or
- (ii) engagement or non-engagement, or termination or suspension of employment, of one or more workmen; or
- (iii) allocation of work as between workmen or groups of workmen; or
- (iv) a procedure agreement;

but shall not include any matter which was the subject of a complaint which has been settled by an inspector or determined by the Employment Tribunal under the Employment Act 2000;

“lock-out” means action which, in contemplation or furtherance of a labour dispute, is taken by one or more employers, whether parties to the dispute or not, and which consists of the exclusion of workmen from one or more work shops, offices or other places of employment or of the suspension of work in one or more such places or of the collective, simultaneous or otherwise connected termination or suspension of employment of a group of workmen;

“the Minister” means the Minister charged with responsibility for Labour;

“Permanent Arbitration Tribunal” means the Permanent Arbitration Tribunal established under Part IV;

“prescribed” means prescribed by rules under section 41;

“procedure agreement” has the meaning assigned to it in subsection (2);

“strike” means a concerted stoppage of work by a group of workmen in contemplation or furtherance of a labour dispute, whether they are parties to the dispute or not, whether (in the case of all or any of those workmen) the

LABOUR RELATIONS ACT 1975

stoppage is or is not in breach of their terms and conditions of employment, and whether it is carried out during, or on the termination of their employment;

“terms and conditions of employment” means any terms and conditions under which one or more workmen have worked, are working or will be working for their employers;

“trade union” means a trade union registered under the Trade Union Act 1965 [*title 18 item 2*];

“workman” means an individual regarded in whichever (if any) of the following capacities is applicable to him, that is to say, as a person who works or normally works or seeks to work—

- (a) under a contract of employment; or
- (b) subject to section 2, in employment under or for the purposes of the Crown, in so far as any such employment does not fall within paragraph (a).

(2) For the purposes of this Act, a procedure agreement means so much of a collective agreement as relates to any of the following matters—

- (a) machinery for consultation with regard to, or for the settlement by negotiation, conciliation, or arbitration of terms and conditions of employment; or
- (b) machinery for consultation with regard to, or for the settlement by negotiation, conciliation, or arbitration of, other questions arising between an employer or organization of employers and a trade union of workmen; or
- (c) negotiating rights; or
- (d) facilities for officials of trade unions; or
- (e) procedures relating to dismissal; or
- (f) procedures relating to matters of discipline other than dismissal; or
- (g) procedures relating to grievances of individual workmen.

[Section 1 amended by 1991:37 effective 12 July 1991; “labour dispute” amended by 2000:38 s.47 effective 1 March 2001; Section 1 subsection (1) “Director” inserted by 2010 : 36 s. 2 effective 16 July 2010; Section 1 subsection (1) “Director” amended by BR 40 / 2013 para. 2 effective 3 May 2013]

Application of Act

2 This Act shall not apply in relation to—

- (a) persons in the naval, military or air forces of Her Majesty or of the United States of America or in the Police Service of Bermuda; or
- (b) a prison officer as defined for the purposes of the Prisons Act 1979 [*title 10 item 32*]; or

- (c) persons employed in civilian employment by or under the Government of the United Kingdom who have been engaged in a place outside Bermuda to take up employment in Bermuda; or
- (d) persons employed by or under the Government of the United States of America.

[Section 2 amended by 1997:37 effective 6 May 1999]

PART II

ARBITRATION, SETTLEMENT AND INQUIRY IN LABOUR DISPUTES

Labour disputes may be reported to the Director for conciliation and settlement

3 (1) Any labour dispute, whether existing or apprehended, may be reported to the Director by a person authorized by any of the parties to the dispute.

(2) The Director shall consider any labour dispute so reported and he, or any public officer authorized by him to do so, shall endeavour to conciliate the parties and to effect a settlement by all means at his disposal.

(3) Where the Director, or any officer authorized by him in that behalf, is unable to effect a settlement of a labour dispute the Director shall report such dispute to the Minister who may, subject to this section, if he thinks fit and if both parties to the dispute consent, refer the dispute for settlement to—

- (a) a sole arbitrator appointed by the Minister; or
- (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 workmen concerned, all of whom shall be appointed by the Minister; or
- (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 workmen concerned, and an independent chairman, all of whom shall be appointed by the Minister; or
- (d) the Permanent Arbitration Tribunal.

(4) If there is existing in any trade or industry any relevant procedure agreement for the settlement by negotiation, conciliation or arbitration of a labour dispute in such trade or industry, the Minister shall not, except with the consent of all the parties to the dispute, and unless and until there has been a failure to obtain a settlement by means of those arrangements, refer any such labour dispute for settlement in accordance with the foregoing provisions of this section.

[Section 3 amended by 2010 : 36 s.2(b) effective 16 July 2010]

LABOUR RELATIONS ACT 1975

Boards of Inquiry

4 (1) Where any labour dispute exists or is apprehended, the Minister may, whether or not the dispute is reported under this Act, inquire into the causes and circumstances of the dispute, and, if he thinks fit, refer any matters appearing to him to be connected with or relevant to the dispute to a Board of Inquiry appointed by him for the purpose of such reference, and the Board shall inquire into the matters referred to them and report thereon to the Minister.

(2) 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.

(3) A Board of Inquiry may act notwithstanding any vacancy in their number.

Reports of Boards of Inquiry; publication

5 (1) A Board of Inquiry may, if they think fit, make interim reports.

(2) Any report of a Board of Inquiry and any minority report, shall be submitted to the Minister as soon as may be.

(3) The Minister may cause to be published from time to time, in such manner as he thinks fit, any information obtained or conclusions arrived at by a Board of Inquiry as a result of or in the course of the inquiry:

Provided that, except with the consent of the secretary of the trade union or of the person, firm, or company in question, there shall not be included in any publication authorized by the Minister any information obtained by the Board of Inquiry in the course of the 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.

(4) Any individual member of the Board or any person concerned in the inquiry who, without such consent as aforesaid discloses any such information commits an offence:

Punishment on summary conviction: a fine of \$500.

PART IIA

SPECIAL PROVISIONS RELATING TO ESSENTIAL INDUSTRIES

Application to essential industries

5A (1) This Part shall apply to a labour dispute, difference or other conflict in any industry or business which is specified in the Fourth Schedule and in any other to which the Minister may by Order add to that Schedule and declare that this Part applies.

(2) The Minister may by Order amend the Fourth Schedule.

(3) The industry or business specified in the Fourth Schedule shall be deemed to be an essential industry.

LABOUR RELATIONS ACT 1975

(4) The affirmative resolution procedure shall apply to an Order made under this section.

Board established

5B (1) For the purpose of settling a labour dispute, difference or other conflict in an essential industry under this Part there is established an Essential Industries Disputes Settlement Board (hereafter referred to as “the Board”) which shall consist of a Chairman, a Deputy Chairman and a panel of not less than six and not more than twelve other members appointed in writing by the Minister on such terms and conditions as the Minister may prescribe.

(2) The Board, in the exercise of the powers conferred upon it by this Part, shall not be subject to the direction or control of any other person or authority.

[Section 5B amended by 1992:1 effective 6 March 1992]

Minister to consult before appointing members

5C Before exercising his powers under section 5B, the Minister shall consult such trade union or other organization and such employer in an essential industry as appear to him to be representative of the views of workmen in an essential industry in Bermuda and an employer in such industry.

Members appointed

5D (1) For the purpose of settling a labour dispute, difference or other conflict referred to the Board under this Part, the Board may be constituted as follows:

- (a) the Board may consist of a single member from the Board and in addition not more than two persons of skill and experience in the matter to which the proceedings relate, as assessors, one of whom may be nominated by one party to the dispute, difference or other conflict and the other may be nominated by the other party thereto; the single member and the assessors being appointed by the Minister; or
- (b) the Board may consist of either—
 - (i) the Chairman and the Deputy Chairman and one member from the panel; or
 - (ii) the Chairman or the Deputy Chairman and two members from the panel,

and in addition not more than two persons of skill and experience in the matter to which the proceedings relate, as assessors, one of whom may be nominated by one party to the dispute, difference or other conflict and the other may be nominated by the other party thereto; the Chairman or the Deputy Chairman, two members from the panel and the assessors being appointed by the Minister.

(2) Where the Deputy Chairman is appointed to sit on the Board as constituted under subsection (1)(b)(ii) he shall be the Chairman of the sitting of the Board.

LABOUR RELATIONS ACT 1975

(3) The assessors appointed under subsection (1) shall assist the member or members of the Board but they do not have a vote.

(4) If an assessor is not nominated by either party or both parties to the labour dispute, difference or other conflict, the Board may deal with the labour dispute, difference or other conflict as if the Board were constituted in accordance with subsection (1)(a) or (1)(b) and no act, proceeding, decision or award of the Board shall be called in question or invalidated by reason of the absence of an assessor.

[Section 5D(1) and (2) amended by 1992:1 effective 6 March 1992]

Chairman and Deputy Chairman

5E (1) The Chairman of the Board shall hold office for a term of three, years and may be re-appointed from time to time for a like term.

(2) The Deputy Chairman of the Board shall on first appointment hold office for a term of one and a half years and may be reappointed for a term of three years.

Duration of appointment

5F The members of the panel shall hold office for a term of two years and may be re-appointed from time to time for a like term. *[transitional provision omitted]*

Incapacity of member or assessor

5G (1) If at any time the Chairman, the Deputy Chairman or any member of the panel is by reason of absence from Bermuda, ill health or other cause unable to perform his duties as such, the Minister may appoint another person to act in the place of the Chairman, the Deputy Chairman or the member during the incapacity.

(2) If at any time an assessor is by reason of absence from Bermuda, ill health or other cause unable to perform his duties as such, another assessor, may be appointed in accordance with section 5D(1) to act in the place of the assessor.

Award

5H An award made by the Board shall be as follows:

- (a) where the Board is constituted in accordance with section 5D(1)(a), the award shall be made by the single member appointed from the Board;
- (b) where the Board is constituted in accordance with section 5D(1)(b), the award shall be made by all the voting members sitting, if they are in agreement or, if the members are not in agreement, then by the majority of the voting members.

Resignation of members

5I The Chairman, the Deputy Chairman or any other member of the Board may at any time resign his appointment by notice in writing addressed to the Minister and upon such resignation the Minister may appoint a Chairman, a Deputy Chairman or other member for the remainder of the term of the resigned member.

LABOUR RELATIONS ACT 1975

Secretary to Board

5J The Minister may appoint a secretary to the Board and may appoint such other officers and servants as he may consider necessary.

Board to regulate procedure and proceedings

5K Save as otherwise expressly provided in this Act, the Board may regulate its procedure and proceedings as it thinks fit.

Fees and allowance

5L The Chairman, the Deputy Chairman, the other members of the Board and the assessors are entitled to receive out of the funds appropriated by the Legislature for the purposes such fees and allowances as the Minister may determine.

Report of labour dispute or difference

5M (1) If—

- (a) a labour dispute exists or is apprehended in an essential industry, or
- (b) a difference arises between the parties in negotiations respecting a new collective agreement for an essential industry,

that dispute or difference, if not otherwise determined, may be reported to the Minister by or on behalf of either party to the dispute or difference or by the Director and the decision of the Minister as to whether such dispute or difference has been so reported to him or not and as to the time at which such dispute or difference has been so reported shall be conclusive for all purposes.

(2) Where there is a difference under subsection (1)(b) and the parties fail to conclude a new agreement, then the collective agreement that was in force prior to the date when the negotiations commenced, notwithstanding the termination thereof, shall be deemed to be in force and shall continue in force until replaced by the new agreement.

(3) The Minister shall consider any dispute or difference reported to him under subsection (1) and shall take any steps which seem to him to promote a settlement for the dispute or difference; steps to promote a settlement may include the referral by him of the matter to a mediator appointed by him for mediation or the referral by him of the matter directly to the Board as constituted in accordance with section 5D(1)(a) or 5D(1)(b) for settlement.

[Section 5M amended by 2010 : 36 s.2(b) effective 16 July 2010]

Matter referred to mediator

5N (1) Where the matter is referred to a mediator the mediator shall, as soon as practicable and in any case, within twenty-one days with effect from the date he has commenced mediation, inquire into it and assist the parties in resolving it.

(2) The Minister may as he considers fit extend the period of time mentioned in subsection (1).

LABOUR RELATIONS ACT 1975

Matter referred to Board

5O Where steps to promote a settlement of the dispute or difference have been taken by the Minister under section 5M(3) and there is a failure to reach a settlement or, in the opinion of the Minister, an undue delay in reaching a settlement, the Minister may—

- (a) refer the matter directly to the Board as constituted in accordance with section 5D(1)(a) or 5D(1)(b) for settlement; or
- (b) if the matter is referred to a mediator, cancel the reference and refer the matter to the Board as constituted in accordance with section 5D(1)(a) or 5D(1)(b) for settlement,

Board's power to receive information

5P (1) For the purpose of dealing with any matter referred to it, the Board as constituted under section 5D(1) may, by writing under the hand of the Chairman thereof—

- (a) require any person to furnish, in writing or otherwise, such particulars in relation to the matter as the Board may specify; and
- (b) require a person to attend before the Board and give evidence on oath or otherwise, or produce documents,

and, subject to this Act, shall not be bound by any rule of evidence in civil or criminal proceedings.

(2) Any person who—

- (a) fails without reasonable excuse to furnish particulars in compliance with a requirement under subsection (1);
- (b) fails without reasonable excuse to attend before the Board in compliance with such a requirement; or
- (c) when in attendance before the Board, refuses to take an oath, or to produce a document or give evidence, in compliance with such a requirement,

is guilty of an offence and is liable on summary conviction to a fine of five hundred dollars; however, a person shall not be punished for refusing to answer any question or to produce any document which he could not be required to answer or produce in proceedings before a court of law in Bermuda, or for failing or refusing to answer any question or produce any document which is not relevant to the matters in issue.

(3) For the removal of doubt it is declared that the powers conferred on the Board by this section can be exercised either on its own volition or on the application of a party.

(4) Any person or party to the proceedings before the Board may appear personally or be represented by counsel or such other person appointed by the person or party to such proceedings.

Time within which Board to make an award

5Q (1) Where any matter is referred to the Board it shall make its award without delay and where practicable within twenty-one days from the, date of reference.

LABOUR RELATIONS ACT 1975

(2) An award on any matter referred to the Board for settlement may be made retrospective to such date as the Board decides not being earlier than the date on which the dispute or difference or question to which the award relates first arose.

(3) The decision of the Board as to such date shall be conclusive.

Award binding

5R Any agreement, decision or award made by the Board shall be binding on the parties to whom the agreement, decision or award relates and, as from the date of such agreement, decision or award or as from such date as may be specified therein not being earlier than the date on which the dispute or difference to which the agreement, decision or award relates first arose, it shall be an implied term of the contract between the parties to whom the agreement, decision or award relates that the terms and conditions of employment to be observed under the contract shall be in accordance with such agreement, decision or award until varied by a subsequent agreement, decision or award.

Question as to interpretation of an award

5S (1) If any question arises as to the interpretation of any agreement, decision or award of the Board, the Minister or any party to the award may apply to the Board as constituted in accordance with section 5D(1) for a decision on such question and the Board shall decide the matter after hearing the parties, or without such hearing, provided the consent of the parties has first been obtained.

(2) The decision of the Board shall be notified to the parties and shall be binding in the same manner as the decision in an original award.

Unfair industrial practice

5T Any time after a labour dispute or a difference is referred to a mediator or to the Board or a complaint under section 5U is presented to the Board or a complaint under section 5V is reported to the Director or the Minister or is referred to the Board, and is not otherwise determined, a lock-out, strike or irregular industrial action short of a strike at the place of employment in relation to which the labour dispute or difference exists or at the place of employment to which the complaint relates, shall be an unfair industrial practice.

[Section 5T amended by 2010 : 36 s.2(b) effective 16 July 2010]

Complaint to Board

5U (1) Where—

- (a) an employer in an essential industry takes part in any lock-out;
- (b) a workman employed in an essential industry takes part in any strike or irregular industrial action short of a strike; or
- (c) a trade union incites or in any way encourages, supports, assists or influences any workman employed in an essential industry to take part in any strike or irregular industrial action short of a strike,

LABOUR RELATIONS ACT 1975

which is an unfair industrial practice under section 5T, then an aggrieved person may present a complaint to the Board as constituted in accordance with section 5D(1)(b) against the employer, workman or the union.

(2) An aggrieved person means an employer or a workman or a trade union directly concerned in or affected by the unfair industrial practice under section 5T, or the Minister.

Failure to comply with grievance procedure

5V (1) Where a person or a trade union fails to comply with the grievance procedure set out in a collective agreement for the essential industry that person or trade union commits an unfair industrial practice.

(2) A complaint may be made to the Director—

- (a) by an employer or a workman who is directly concerned in or affected by the unfair industrial practice under this section; or
- (b) by a trade union which is directly concerned in or affected by the unfair industrial practice under this section.

(3) The Director shall consider the complaint reported to him under subsection (2) and he, or any public officer authorized by him to do so, shall endeavour to conciliate the parties and to effect a settlement.

(4) Where the Director, or any officer authorized by him in that behalf, is unable to effect a settlement, the Director shall report the complaint to the Minister who may take any steps which seem to him to promote a settlement and may if he thinks fit refer the complaint to the Board as constituted in accordance with section 5D(1)(a) or 5D(1)(b).

(5) When a complaint is referred to the Board the provisions of sections 5P to 5S (inclusive) shall apply mutatis mutandis.

[Section 5V amended by 2010 : 36 s.2(b) effective 16 July 2010]

Remedies

5W (1) If on a complaint mentioned in section 5U or 5V the Board finds that the complaint is wholly or partly well-founded, it may grant one or more of the following remedies:

- (a) an award determining the rights of the employer in or the workman of the essential industry and of the trade union in relation to the matter to which the complaint relates;
- (b) an award directing the employer in or the workman of the essential industry or the trade union to take such action in fulfilment of the duty in question as, in the opinion of the Board, it would be within the power of the employer, the workman or the trade union to take and is action which in the circumstances either the employer, the workman or the trade union ought to be required to take;
- (c) an award of compensation calculated in accordance with subsections (2) and (3) to be paid to the employer, the workman or the trade union;

LABOUR RELATIONS ACT 1975

- (d) a general award of such sum to be paid to the employer, the workman or the trade union as the Board thinks fit.
- (2) The amount of the compensation awarded under this section shall be such amount as the Board considers just and equitable but the award—
- (a) against the employer in the essential industry shall not exceed five thousand dollars and may in addition in respect of each day during which the unfair industrial practice continues not exceed two hundred dollars per day;
 - (b) against the workman of the essential industry shall not exceed two weeks' wages and may in addition in respect of each day during which the unfair industrial practice continues not exceed one day's wage per day; or
 - (c) against a trade union shall not exceed five thousand dollars and may in addition in respect of each day during which the unfair industrial practice continues not exceed two hundred dollars per day.
- (3) Where the Board finds that the unfair industrial practice complained of was to any extent caused or contributed to by any action of the aggrieved person or the complainant it may not award any compensation or it may reduce the amount of compensation by such proportion as it considers just and equitable having regard to that finding.

Enforcement and recovery of an award

5X An award under—

- (a) section 5W(1)(b) may be enforced in the Supreme Court by the person or party directly concerned in or affected by the non-fulfilment of the duty;
- (b) section 5W(1)(c) or (1)(d) may be recovered as a civil debt in the Supreme Court or in a Court of Summary Jurisdiction by the person or party to whom the compensation or sum is awarded.

Enforcement of judgement, order or award against trade union

5Y Notwithstanding any other provision in this Act or the Trade Union Act 1965 [*title 18 item 2*], for the purposes of this Act a trade union shall not be or be treated as if it were, a body corporate, but—

- (a) it shall be capable of suing or being sued in its own name whether in proceedings relating to property or to proceedings pursuant to this Act;
- (b) any judgment, order or award made in proceedings of the description mentioned in paragraph (a) brought against the trade union on or after 12 July 1991 shall be enforceable by way of execution, punishment for contempt or otherwise against any property held in trust for the trade union to the like extent and in the like manner as if the union were a body corporate.

[Section 5Y amended and modified by 1992:52 ; Part IIA inserted by 1991:37 effective 12 July 1991]

PART III
ESSENTIAL SERVICES

Application of Part III

6 This Part shall apply to the essential services.

Form of report of labour dispute in essential services

7 A report of a labour dispute in an essential service made to the Director under section 3(1) shall be made in writing and shall specify—

- (a) the parties to the dispute;
- (b) the person or persons on behalf of whom the report is made;
- (c) every issue relevant to the dispute; and
- (d) where there is a relevant procedure agreement in being, what action has been taken for dealing with the dispute under the agreement.

[Section 7 amended by 2010 : 36 s.2(b) effective 16 July 2010]

Reference to Permanent Arbitration Tribunal

8 (1) The Minister may by order in writing under his hand refer any labour dispute in an essential service for settlement to the Permanent Arbitration Tribunal at any time after the dispute has been reported under section 3(1) and before the expiration of any notice of lock-out, strike or irregular industrial action short of a strike given in accordance with section 9.

(2) Until such time as the Minister makes an order under this section a labour dispute in an essential service shall be dealt with in accordance with the procedures provided for in Part II.

Restriction on strikes in an essential service

9 (1) A lock-out, strike or any irregular industrial action short of a strike in an essential service shall be unlawful unless there is a labour dispute within that service and—

- (a) a report of the labour dispute has been made to the Director under section 3(1) as read with section 7; and
- (b) thereafter valid notice of the intended lock-out, strike or irregular industrial action short of a strike has been given to the Director by the employer, or trade union on his behalf, or workmen, or trade union on their behalf, as the case may be, at least twenty-one days prior to the day upon which the lock-out, strike or irregular industrial action short of a strike is to commence; and
- (c) the lock-out, strike or irregular industrial action short of a strike is the lock-out, strike or action specified in the notice (both as respects its nature and the persons participating) and, subject to subsection (4), commences

on the day specified in the notice, or within twenty-four hours thereafter;
and

(d) the dispute has not been referred for settlement to the Permanent Arbitration Tribunal under section 8.

(2) No notice of an intended lock-out, strike or irregular industrial action short of a strike shall be valid for the purposes of subsection (1)(b) unless it specifies—

(a) the industrial action to be taken, whether this be a lock-out, strike or irregular industrial action short of a strike, and if it be irregular industrial action short of a strike, the nature of such action;

(b) the persons or category of persons who are to participate in the lock-out, strike or irregular industrial action short of a strike, being persons who are employers or workmen in the essential service in which the lock-out, strike or irregular industrial action short of a strike is to take place;

(c) the day upon which the lock-out, strike or irregular industrial action short of a strike is to commence.

(3) Where notice of an intended lock-out, strike or irregular industrial action short of a strike has been given in accordance with subsection (1)(b), a subsequent notice given by the same party shall not be valid for the purposes of subsection (1)(b) to the extent that it specifies any persons or category of persons who are to participate in a lock-out, strike or irregular industrial action short of a strike who have already been so specified in the previous notice, if such subsequent notice is given before the day specified in the previous notice as the day upon which a lock-out, strike or irregular industrial action short of a strike is to commence or such day as varied by agreement under subsection (4).

(4) The day upon which any lock-out, strike or irregular industrial action short of a strike is to commence as specified in the notice given in accordance with subsection (1)(b) may be varied prior to the expiration of that notice (or of that notice as extended under this subsection) by extending the period of the notice by not more than seven days at a time by agreement between the parties to the dispute, but only (except where the Government is such a party) if the Minister authorizes the extension.

(5) Any person who—

(a) being an employer in an essential service, takes part in any lock-out which is declared unlawful by subsection (1); or

(b) being a workman employed in an essential service, takes part in any strike or irregular industrial action short of a strike, which is declared unlawful by subsection (1); or

(c) incites or in any way encourages, persuades or influences any workman employed in any essential service to take part in any strike or irregular industrial action short of a strike, which is declared unlawful by subsection (1),

LABOUR RELATIONS ACT 1975

knowing or having reasonable cause to believe that the probable consequences of that employer or workman so doing, either alone or in combination with others, would be to deprive the public, wholly or to a great extent, of that service, commits an offence:

Punishment on summary conviction: imprisonment for 3 months or a fine of \$500 or both such imprisonment and fine.

(6) For the purposes of this section a labour dispute shall not be regarded as being within an essential service unless it is a dispute between employers and workmen, or between workmen and workmen engaged in the provision of that service.

[Section 9 amended by 2010 : 36 s.2(b) effective 16 July 2010]

Duty of employers to comply with rules as to notice

10 Every employer who fails to comply with any rules made under section 41 requiring workmen and persons to be employed in an essential service to be given notice that such workmen or persons are or are to be employed in an essential service commits an offence:

Punishment on summary conviction: a fine of \$100.

Reference to Tribunal for advice

11 The Minister may refer to the Permanent Arbitration Tribunal for advice any matter relating to or arising out of a labour dispute in an essential service which, in his opinion, ought to be so referred.

Awards in essential services may be made binding

12 (1) The Minister may publish in the Gazette any award of—

- (a) an arbitration tribunal; or
- (b) the Permanent Arbitration Tribunal,

arising from the reference under Part II or this Part of a labour dispute in an essential service to such person or body, and upon such publication the award shall be binding on the parties to such labour dispute.

(2) Where an award is binding by reason of subsection (1) the terms of the award shall, as from the date of such award, or as from such date as may be specified therein pursuant to section 26, be deemed to be implied terms of the contract between the employers and the workmen to whom such award relates, until the same are varied—

- (a) by a subsequent binding award; or
- (b) with the consent of the Minister, by agreement between the parties.

(3) No award shall be binding by reason of subsection (1) for a period in excess of—

- (a) the period during which the award is to be binding as specified in the award; or

- (b) two years from the date of the publication of the award in the Gazette under subsection (1),

whichever is the shorter period.

Certificates by Director

13 In any proceedings arising out of or in connection with a contravention of section 9 a certificate purporting to be under the hand of the Director setting out—

- (a) whether a labour dispute in an essential service has been reported in accordance with section 3(1) as read with section 7 and, if it has been reported, the date and the terms of such report;
- (b) whether the Minister has, or has not, referred a labour dispute to the Permanent Arbitration Tribunal under section 8 and, if the Minister has, the date thereof and the terms of the order of the Minister;
- (c) whether notice of an intended lock-out, strike or irregular industrial action short of a strike has been given under section 9, and if it has been given, the date and terms thereof;
- (d) the terms of any authority given by the Minister under subsection (4) of section 9,

shall be admissible without further proof as evidence of the matters stated therein.

[Section 13 amended by 2010 : 36 s.2(b) effective 16 July 2010]

PART IV

PERMANENT ARBITRATION TRIBUNAL

Establishment and constitution of Permanent Arbitration Tribunal

14 (1) There is hereby established a Permanent Arbitration Tribunal which shall consist of a Chairman, a Deputy Chairman and a panel of not more than twelve members appointed by the Minister by notice in the Gazette.

(2) Before exercising his powers under subsection (1) the Minister shall consult such trade unions or other organizations as appear to him to be representative of the views of employers and workmen in Bermuda.

(3) For the purpose of determining any dispute or other matter referred to the Permanent Arbitration Tribunal under this Act or any other provision of law, the Tribunal shall be composed of the Chairman or Deputy Chairman and two members selected by the Minister from among the panel:

Provided that where a dispute has been referred to the Permanent Arbitration Tribunal under Part II the Tribunal may, if the parties so agree, consist of the Chairman or Deputy Chairman appointed by the Minister as aforesaid, and two other members, one of whom shall be a member of the panel and nominated by one party to the dispute and the other a member of the panel and nominated by the other party.

(4) The Chairman and Deputy Chairman of the Permanent Arbitration Tribunal shall hold office for a period of three years, and may be reappointed from time to time for a like period.

(5) The members of the panel shall hold office for a period of two years, and may be reappointed from time to time for a like period:

[proviso omitted][spent]

(6) The Minister may at any time, by notice in the Gazette, appoint any person to act in the place of the Chairman, Deputy Chairman or any member of the panel who is absent from Bermuda or who is for any reason incapacitated.

(7) The Chairman, Deputy Chairman or any member of the panel may at any time, except during the course of proceedings before them under this Act, resign his appointment by notice in writing addressed to the Minister.

(8) The Chairman, Deputy chairman and members of the panel shall be entitled to receive out of the funds appropriate by the Legislature for the purpose such fees and allowances as the Minister may determine.

Functions of Tribunal

15 The Permanent Arbitration Tribunal shall have jurisdiction to hear and determine any labour dispute or other matter referred to it under this Act and shall have such other functions as may be conferred upon it by any other provision of law.

Assessors

16 In any proceedings the Chairman or Deputy Chairman of the Permanent Arbitration Tribunal may, if he thinks fit, summon to the assistance of the Permanent Arbitration Tribunal, in such manner as may be prescribed, any person of skill and experience in the matter to which the proceedings relate who is willing to assist the Tribunal as an assessor.

PART V

ARBITRATION TRIBUNALS AND BOARDS OF INQUIRY

Interpretation

17 In this Part, "Tribunal" means an arbitration tribunal and the Permanent Arbitration Tribunal.

Award to be made without delay

18 A Tribunal shall make its award, or, as the case may be, furnish its advice on any matter referred to it under this Act without delay and, in any case, within twenty-one days from the commencement of the hearing:

Provided that the Minister may, if in his opinion the circumstances of the case make it necessary or desirable so to do, extend such period of twenty-one days for such further period as the Minister thinks fit.

Vacancies in a Tribunal

19 (1) Where a vacancy occurs in the membership of a Tribunal consisting of more than one member, the Tribunal may—

- (a) in the case of a labour dispute in an essential service, in the discretion of the remaining members; and
- (b) in the case of any other labour dispute, with the consent of all parties to the labour dispute,

continue to act notwithstanding such vacancy.

(2) Whenever a Tribunal consists of an arbitrator assisted by assessors appointed under section 3(3)(b) and any vacancy occurs in the assessors, the Tribunal may in the discretion of the arbitrator act notwithstanding such vacancy, or the vacancy may be filled by the nomination and appointment of another assessor under section 3(3)(b) as if the labour dispute were then being referred to the Tribunal for settlement.

(3) Where, in the circumstances referred to in subsection (1) or subsection (2), the required discretion has been exercised or the required consent has been obtained, as the case may be, no act, proceeding or determination of a Tribunal shall be called in question or invalidated by reason of the vacancy in question.

Power of Tribunal or Board of Inquiry to obtain information

20 (1) For the purpose of dealing with any matter referred to it, a Tribunal or a Board of Inquiry, as the case may be, may—

- (a) require any person to furnish, in writing or otherwise, such particulars in relation to the matter as the Tribunal or Board may specify; and
- (b) require a person to attend before the Tribunal or Board and give evidence on oath or otherwise, or produce documents, and, subject to this Act, shall not be bound by any rule of evidence in civil or criminal proceedings.

(2) Any person who—

- (a) fails without reasonable excuse to furnish particulars in compliance with a requirement under subsection (1); or
- (b) fails without reasonable excuse to attend before a Tribunal or Board in compliance with such a requirement; or
- (c) when in attendance before a Tribunal or Board, refuses to take an oath, or to produce a document or give evidence, in compliance with such a requirement,

commits an offence:

Punishment on summary conviction: a fine of \$500.

Provided that a person shall not be punished for refusing to answer any question or to produce any document which he could not be required to answer or produce in

LABOUR RELATIONS ACT 1975

proceedings before a court of law in Bermuda, or for failing or refusing to answer any question or produce any document which is not relevant to the matters in issue.

(3) For the removal of doubt it is declared that the powers conferred on a Tribunal by this section can be exercised either on its own volition or on the application of a party.

Appearance by counsel

21 Any interested person may appear personally or be represented by counsel at any proceedings or inquiry before a Tribunal or Board of Inquiry under this Act.

Power of Tribunal or Board of Inquiry to exclude public

22 (1) A Tribunal or Board of Inquiry may with the consent of both parties to the dispute exclude the public or any representative of the press from any of its sittings.

(2) Whenever any representatives of the press are present at any such proceedings, and not otherwise, a fair and accurate report or summary of the proceedings including the evidence adduced at such proceedings may be published:

Provided however that until the award or the result of the inquiry has been published by order of the Minister no comment shall be published in respect of the proceedings or of any evidence adduced at such proceedings.

(3) Any person who publishes any report on, or comment in respect of any proceedings before a Tribunal or Board of Inquiry other than as authorized by subsection (2) commits an offence:

Punishment on summary conviction: a fine of \$500.

Award of Tribunal not to conflict with any Act

23 Where any labour dispute referred to a Tribunal involves questions as to wages, or as to hours of work, or otherwise as to terms or conditions of or affecting employment which are regulated by any Act other than this Act, the Tribunal shall not make any award which is inconsistent with that Act.

Publication of award

24 Any award of a Tribunal shall be submitted to the Minister who shall as soon as possible thereafter cause the award to be made public:

Provided that—

- (a) nothing in this section shall require the Minister to publish an award in an essential service which is not to be made binding under section 12;
- (b) there shall not be included in any publication so authorized by the Minister any information obtained by the Tribunal in the course of the inquiry as to any trade union or to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through evidence given at the enquiry, except with the consent of the secretary of the association or of the person, firm or company in question.

LABOUR RELATIONS ACT 1975

Interpretation of award and arbitral errors

25 (1) If any question arises as to the interpretation of an award of a Tribunal or any alleged error therein, the Minister or either party to the dispute may apply to the Tribunal for a decision on such question and the Tribunal shall decide the matter after hearing the parties, or without such hearing if the consent of both parties has been first obtained.

(2) The determination of the Tribunal shall be notified to the parties and shall thereafter be deemed to form part of and shall have the same effect in all respects as the original award.

Award may be retrospective

26 (1) Any award made by a Tribunal, may be made so as to have retrospective effect, but, subject to subsection (2), such effect shall not be prior to the date upon which the labour dispute was reported to the Director.

(2) Notwithstanding subsection (1), an award made by a Tribunal may be made so as to have retrospective effect prior to the date referred to in that subsection—

- (a) where both parties to the dispute consent thereto; or
- (b) where the dispute relates solely to the retrospective effect of a collective agreement.

[Section 26 amended by 2010 : 36 s.2(b) effective 16 July 2010]

Award to require concurrence of majority of arbitrators

27 Any award made—

- (a) by a Tribunal appointed under section 3(3)(a) or (b) shall be made by the arbitrator;
- (b) by a Tribunal appointed under section 3(3)(c) or by the Permanent Arbitration Tribunal shall be made by all the members of such Tribunal, if they are in agreement or, if such members are not in agreement, then by the majority.

Regulation of proceedings

28 Save as is otherwise provided in this Act or as may be prescribed, the Director, a Tribunal or a Board, as the case may be, may regulate the procedure in any proceedings under this Act as he or it shall think fit.

[Section 28 amended by 2010 : 36 s.2(b) effective 16 July 2010]

Arbitration Act 1986 not to apply

29 The Arbitration Act 1986 [*title 8 item 75*] shall not apply to any proceedings of a Tribunal under this Act or to any award made thereby.

Restriction on liability for interfering with another person's business

30 An act done by a person in contemplation or furtherance of a labour dispute shall not be actionable on the ground only that it induces some other person to break a contract of employment or that it is in interference with the trade, business or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills:

Provided that nothing in this section shall confer any immunity in respect of any act done in contravention of section 33 or in respect of any other act done in contemplation or furtherance of any thing which by this Act is unlawful.

Conspiracy

31 (1) Subject to this section—

- (a) an agreement or combination of two or more persons to do or procure to be done any act in contemplation or furtherance of a labour dispute shall not be indictable as a conspiracy if such an act committed by one person would not be punishable as a crime; and when a person is convicted of conspiracy in relation to an act which is punishable only on summary conviction, then, if the act is in contemplation or furtherance of a labour dispute, a sentence of imprisonment imposed therefor shall not exceed three months or such longer term of imprisonment as is provided by law for the punishment of the act when committed by one person only;
- (b) an act done in pursuance of an agreement or combination by two or more persons shall, if done in contemplation or furtherance of a labour dispute, not be actionable unless the act, if done without any such agreement or combination, would be actionable.

(2) Nothing in this section—

- (a) shall affect the law of Bermuda relating to riot, unlawful assembly, breach of the peace or sedition, or any offence against the State or the Sovereign;
- (b) shall confer any immunity from criminal or civil proceedings in respect of any act done in contravention of section 33 or in respect of any other act done in contemplation or furtherance of a lock-out, strike or irregular industrial action short of a strike which by this Act is unlawful;
- (c) shall exempt from punishment any person guilty of a conspiracy for which a punishment is provided by the provisions of any Act other than such provisions of the Criminal Code [*title 8 item 31*] as are merely declaratory of the common law of England relating to conspiracy.

(3) For the purposes of this section “crime” means an offence, punishable on conviction on indictment or on summary conviction, for the commission of which the offender is liable under the Act making the offence so punishable to be imprisoned either absolutely or at the discretion of the court as an alternative to some other punishment.

Peaceful picketing

32 (1) Subject to section 33 it shall be lawful for one or more persons, acting on behalf of a trade union in contemplation or furtherance of a labour dispute, to attend at or near a place where a person works or carries on business if they so attend merely for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or abstain from working, and, in doing so, comply with the picketing rules set out in the Second Schedule:

Provided that nothing in this section—

- (a) shall confer any immunity in respect of any act done in contemplation or furtherance of a lock-out, strike or irregular industrial action short of a strike which this Act declares to be unlawful; or
- (b) shall, save as provided in section 29 of the Trade Union Act 1965 [*title 18 item 2*], confer any immunity from criminal or civil proceedings in respect of trespass.

(2) Any person who while picketing fails to comply with any of the picketing rules commits an offence:

Punishment on summary conviction: a fine of \$250.

Prevention of intimidation

33 (1) It shall not be lawful for one or more persons (whether acting on their own behalf or on behalf of a trade union or of an individual employer or firm, and notwithstanding that they may act in contemplation or furtherance of a labour dispute) to attend at or near a place where a person works or carries on business, or happens to be, for the purpose of obtaining or communicating information or of persuading or inducing any person to work or to abstain from working, if they so attend in such number or otherwise in such manner as to be calculated to intimidate any person in that place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace; and any person so attending at or near any place in such numbers or in such manner as is by this subsection declared to be unlawful commits an offence:

Punishment on summary conviction: imprisonment for twelve months.

(2) Any person who, with a view to compelling any other person to abstain from doing or to do any act which such person has a legal right to do or abstain from doing, wrongfully and without legal authority—

- (a) injures or intimidates such other person; or
- (b) persistently follows such other person about from place to place; or
- (c) watches or besets the place where such person works or carries on business, or happens to be, or the approach to such place; or
- (d) follows such other person with two or more other persons in a disorderly manner in or through any street or road; or
- (e) injures or intimidates the wife or child of such other person; or

LABOUR RELATIONS ACT 1975

(f) injures any property,

commits an offence:

Punishment on summary conviction: imprisonment for twelve months.

(3) In this section “intimidate” means to cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or to any of his dependants or of violence or damage to any person or property and “injury” includes injury to a person in respect of his person, business, occupation, employment or other source of income, and includes any actionable wrong.

Unlawful lock-outs, strikes

34 (1) It is hereby declared that any lock-out, strike or irregular industrial action short of a strike shall be unlawful if—

- (a) it has any object other than or in addition to the furtherance of a labour dispute within the trade or industry in which the strikers, persons taking irregular industrial action short of a strike or employers locking-out, as the case may be, are engaged; or
- (b) it is designed or calculated to coerce the Government either directly or by inflicting severe hardship upon the community,

and it is further declared that it is unlawful to commence, or continue, or to apply any sums in furtherance or support of, any such illegal lock-out, strike or irregular industrial action short of a strike:

Provided that—

- (a) a lock-out, strike or irregular industrial action short of a strike, the purpose of which is merely to alter or maintain the terms and conditions of employment of strikers or workmen locked out, as the case may be, shall not be deemed to be designed or calculated to coerce the Government; and
- (b) a lock-out, strike or irregular industrial action short of a strike shall not be deemed to be calculated to coerce the Government unless such coercion ought reasonably to be expected as a consequence thereof.

(2) For the purposes of subsection (1), a labour dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen, or between workmen and workmen, in that trade or industry, which is connected with the employment or nonemployment or the terms of employment, or with the conditions of work, of persons in that trade or industry.

(3) Any person who takes part in, incites or in any way encourages, persuades or influences any person to take part in, or otherwise acts in furtherance of, a lock-out, strike or irregular industrial action short of a strike declared by this section to be unlawful commits an offence:

Punishment on conviction on indictment: imprisonment for 2 years or a fine of \$2,000 or both such imprisonment and fine;

LABOUR RELATIONS ACT 1975

Punishment on summary conviction: imprisonment for 3 months or a fine of \$500.

Provided that no person shall commit an offence under this section by reason only of his having ceased work or refused to continue to work or to accept employment.

Protection of persons refusing to take part in illegal lock-outs or strikes

35 (1) No person refusing to take part, or to continue to take part, in any lock-out, strike or irregular industrial action short of a strike which is by this Act declared to be unlawful shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or to any fine or penalty or to deprivation of any right or benefit to which he or his legal personal representative would otherwise be entitled, or liable to be placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the trade union, anything to the contrary in the rules of a trade union notwithstanding.

(2) None of the provisions of this Act or the Trade Union Act 1965 [*title 18 item 2*], and nothing in the rules of a trade union requiring the settlement of disputes in any manner, shall prevent or restrict any proceedings for enforcing any right or exemption secured by this section, and in any such proceedings the court may, in lieu of ordering a person who has been expelled from membership of a trade union to be restored to membership, order that he be paid out of the funds of the trade union such sum by way of compensation or damages as the court thinks fit.

Breach of contract of service endangering life or property

36 Any person who wilfully breaks or terminates a contract of service knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life or cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury, although he may be acting in furtherance of a lawful labour dispute commits an offence:

Punishment on summary conviction: imprisonment for 3 months or a fine of \$500 or both such imprisonment and fine.

Trade unions may be prosecuted for offences against this Act

37 (1) A trade union may be prosecuted for an offence under this Act as though it were a body corporate.

(2) Where a trade union is guilty of an offence under this Act and that offence is proved to have been committed with the consent, knowledge or connivance of, the chairman, secretary or other similar officer of the trade union, or any person who is purporting to act in such capacity, he, as well as the trade union, shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of this section, a trade union includes any body performing the functions of a trade union notwithstanding that it is not registered as a trade union under the Trade Union Act 1965 [*title 18 item 2*].

LABOUR RELATIONS ACT 1975

(4) Any fine payable by a trade union convicted of an offence under this Act shall unless otherwise paid be payable out of the funds of the trade union.

Offences by corporations

38 Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent, knowledge or connivance of a director, manager, secretary or other similar officer of the body corporate, or any person who is purporting to act in any such capacity, he, as well as the body corporate commits that offence and be liable to be proceeded against and punished accordingly.

Consent of Director of Public Prosecutions

39 Where any person is charged before any court with an offence under this Act no further proceedings in respect thereof shall be taken against him without the consent of the Director of Public Prosecutions except such as the court may think necessary by remand (whether in custody or on bail) to secure the safe custody of the person charged.

[Section 39 amended by 1999:8 s.2 & Sch 1 effective 1 April 1999]

Relief by way of injunction against contravention of this Act

40 (1) Notwithstanding any other provision of this Act or the Trade Union Act 1965 [title 18 item 2], and without prejudice to any remedy or relief to which any person may be entitled apart from this section, any person having a sufficient interest in the relief sought shall be entitled, upon making application to the Supreme Court and upon satisfying the Court that there are reasonable grounds for apprehending a contravention of this Act by any person or by any trade union, to an injunction restraining that person or union from so contravening this Act.

(2) For the purposes of this section—

(a) “person having a sufficient interest in the relief sought” includes—

(i) any person whose person, property or business or any right or interest of whom has been or is being or is likely to be injured or damaged by any act which is, or the continuation or repetition of which, is threatened or reasonably apprehended; and

(ii) any person whose house or place of residence, working or business has been unlawfully watched, beset or picketed;

(b) “injunction” includes an interlocutory, permanent or mandatory injunction, and any permanent or temporary relief by way of injunction;

(c) a member or officer of a trade union shall be presumed to be acting on behalf of that union if he takes any step or action in contemplation or in furtherance of a labour dispute in combination or in company with any other member or officer of that union, unless the contrary is proved.

(3) If the Court is satisfied upon an ex parte application that it is probable that the plaintiff is entitled to relief by way of injunction and that it is probable that unless an interlocutory order is made the plaintiff will suffer substantial injury or damage, the Court

LABOUR RELATIONS ACT 1975

shall make such an order subject to such terms and conditions as the Court thinks just; and the Court may at any time on reasonable cause shown discharge or vary such order.

(4) Proceedings for an injunction against a trade union may be brought against that union in its registered name, and an injunction granted under this section against a trade union shall be enforceable by attachment or committal of each officer, and of each member of the executive committee or other governing body, of the union, and by sequestration against the funds of the union.

(5) Subject to subsection (4), an injunction granted under this section against any person shall be enforceable by attachment or committal or otherwise as the Court thinks just.

(6) Relief by way of injunction shall be granted under this section notwithstanding that no compensation or other relief is claimed or granted therewith.

(7) The power to make rules of the Supreme Court provided by section 62 of the Supreme Court Act 1905 [*title 8 item 1*], shall include power to make rules for regulating, subject to and for the purpose of giving effect to this section, the practice and procedure in all matters relating to the granting of relief under this section.

(8) For the purpose of this section, a trade union includes any body performing the functions of a trade union notwithstanding that it is not registered as a trade union under the Trade Union Act 1965 [*title 18 item 2*].

Rules

41 (1) The Minister may make rules for the better carrying into effect of this Act and without derogation from the generality of the foregoing such rules may provide for—

- (a) the procedure to be followed in any proceedings before a Tribunal or Board or otherwise under this Act;
- (b) the giving to workmen and persons to be employed in the essential services of notice that they are employed or to be employed in an essential service;
- (c) any matters which under this Act are required or permitted to be prescribed.

(2) The negative resolution procedure shall apply to rules made under this section.

Repeals and amendments

42 [*omitted*]

Commencement

43 [*omitted*]

FIRST SCHEDULE

(Section 1)

ESSENTIAL SERVICES

- 1 Electricity.
- 2 The extraction, distillation or purification, pumping, storage and distribution of water and the prevention of its waste, misuse or contamination.
- 3 Services provided for the protection of the public health and the prevention of disease including the collection, transportation, processing and disposal of trade and domestic refuse and sewage.
- 4 Hospital and nursing.
- 5 Domestic and industrial gas.
- 6 Port and dock services including pilotage, tug and line boat operation (not connected with cruise ships).
- 7 Fire.
- 8 Lighthouses.
- 9 Air and Marine Traffic Control.
- 10 The refuelling and maintenance of aircraft to the extent that this is necessary to maintain the essential services.
- 11 The loading and unloading of mail, medical supplies, foodstuffs, cattle and chicken feed and all supplies needed to maintain any essential service specified herein and the transport of such goods to their proper destination.
- 12 Transport necessary for the maintenance of any essential service specified herein and the maintenance of such transport.
- 13 Telephone, telegraph and overseas telecommunication.
- 14 Meteorological services.
- 15 Airport security services (other than Police service).
- 16 Ground electronic maintenance services connected with the safety of the Bermuda Airport and aircraft.

LABOUR RELATIONS ACT 1975

17 The following services performed in relation to the Bermuda Airport pursuant to the Civil Airports Act 1949, that is to say—

- (a) airport infrastructure support services;
- (b) crash, fire and rescue services; and
- (c) air navigation services.

[First Schedule amended by 1995:26 effective 12 June 1995]

SECOND SCHEDULE

(Section 32)

PICKETING RULES

A person shall be deemed to be complying with the picketing rules if and so long as all the following rules are satisfied, namely that:—

1 He is picketing in furtherance of a labour dispute in respect of which a lock-out or strike has been lawfully declared.

2 He is ordinarily engaged in the trade or industry in which the dispute occurs.

3 He is picketing at or adjacent to the premises in relation to which the labour dispute exists.

4 He is a member of a trade union which is a party to the labour dispute and is carrying on his person a written authorization signed by an officer of the trade union concerned, on behalf of that trade union, which states his name and address and that he is authorized to picket on behalf of that trade union.

5 He produces that written authorization for inspection when requested to do so by any police officer.

6 He is picketing alone or with not more than nine other individuals at the premises concerned:

Provided that, if more than one union is lawfully engaged in the lock-out or strike, each such union shall be entitled to be represented in the proportion to the number of unions so engaged so, however, that the total number of picketers at the premises concerned shall not exceed ten, or one representative of each union for each entrance from a public place to those premises, whichever is the greater.

7 He is picketing peacefully and without causing any obstruction.

LABOUR RELATIONS ACT 1975

THIRD SCHEDULE

(Section 41 [sic])

AMENDMENTS TO THE TRADE UNION ACT 1965

[omitted]

LABOUR RELATIONS ACT 1975

FOURTH SCHEDULE
BUSINESS OF AN HOTEL

[Assent Date: 27 March 1975]

[This Act was brought into operation on 5 April 1975 by SR&O 35/1975]

[Amended by:

1977 : 35
1991 : 37
1992 : 1
1992 : 52
1995 : 26
1997 : 37
1999 : 8
2000 : 38
2010 : 36
BR 40 / 2013]