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CHAPTER

LABOUR RELATIONS

1. Industrial Disputes Act.
2. Industrial Disputes Hearing and Determination of Proceedings (Special Provisions) Act.
3. Trade Unions Ordinance
4. Termination of Employment of Workmen (Special Provisions) Act.
5. Employees' Councils Act.

INDUSTRIAL DISPUTES

Acts
Nos. 43 of 1950,
25 of 1956,
14 of 1957,
62 of 1957,
4 of 1962,
27 of 1966,
37 of 1968,
39 of 1968.

AN ACT TO PROVIDE FOR THE PREVENTION, INVESTIGATION AND SETTLEMENT OF INDUSTRIAL DISPUTES, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Law
No. 53 of 1973.

[1st September, 1951.]

Acts
32 of 1990,
56 of 1999,
11 of 2003,
21 of 2008.

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Industrial Disputes Act, No.43 of 1950, and shall come into operation on such date (hereinafter referred as the “appointed date”), as the Minister may appoint by notification published in the *Gazette*.

PART II

[§ 2, 27 of 1966.]
[§ 2, 39 of 1968.]

FUNCTIONS OF THE COMMISSIONER AND CIRCUMSTANCES IN WHICH INDUSTRIAL DISPUTES WILL BE REFERRED FOR SETTLEMENT BY CONCILIATION OR BY ARBITRATION OR BY AN INDUSTRIAL COURT

Functions of
Commissioner in
regard to industrial
disputes.

2. (1) Where, upon notice given to him or otherwise, the Commissioner is satisfied that any industrial dispute exists or is apprehended, it shall be the function of the Commissioner to make such inquiries into the matters in dispute, and to take such other steps, as he may think necessary with a view to promoting a settlement of the dispute, whether by means referred to in this Act or otherwise.

[§ 2,4 of 1962.]

(2) For the purposes of this section, “Commissioner” includes a Labour Officer.

Powers of
commissioner in
regard to industrial
disputes.

3. (1) Where the Commissioner is satisfied that an industrial dispute exists in any industry or where he apprehends an industrial dispute in any industry, he may:-

[§ 2,62 of 1957.]
[§ 3,4 of 1962.]

- (a) if arrangements for the settlement of disputes in that industry have been made in pursuance of any agreement between organizations representative respectively of employers and workmen engaged in that industry, cause the industrial dispute to be referred for settlement by means of such arrangements, or
- (b) endeavour to settle the industrial dispute by conciliation, or
- (c) refer the industrial dispute to an authorized officer for settlement by conciliation, or
- (d) if the parties to the industrial dispute or their representative consent, refer that dispute, by an order in writing, for settlement by arbitration to an arbitrator nominated jointly by such parties or representatives, or in the absence of such nomination, to an arbitrator or body of arbitrators appointed by the Commissioner or to a labour tribunal.

[§ 3,4 of 1962.]

(2) A body of arbitrators appointed under paragraph (d) of sub-section (1) shall consist of :-

- (a) a person nominated by the employers,
- (b) a person nominated by the workmen, and
- (c) a person nominated as Chairman jointly by the employers and workmen, or, in the absence of such nomination, by the Commissioner.

The opinion on any matter of the majority of the members of a body of arbitrators shall be deemed to be the opinion of that body on that matter.

(3) Where an industrial dispute is not settled in consequence of action taken by the Commissioner under any of the paragraphs (a),(b),(c) and (d) of subsection (1), he may, if he considers it expedient to do so, take action, as often as he considers it necessary so to do, in respect of that dispute under any of those paragraphs.

Powers of the Minister in regard to industrial disputes.
[§ 3,62 of 1957.]

4. (1) the Minister may, if he is of the opinion that an industrial dispute is a minor dispute, refer it, by an order in writing, for settlement by arbitration to an arbitrator appointed by the Minister or to a labour tribunal, notwithstanding that the parties to such dispute or their representatives do not consent to such reference.

(2) The Minister may, by an order in writing, refer any industrial dispute to an industrial court for settlement.

PART III

COLLECTIVE AGREEMENTS, SETTLEMENTS AWARDS AND EFFECT THEREOF

(A) COLLECTIVE AGREEMENTS

Definition of "collective agreement"
[§ 4,62 of 1957.]

*5. (1) In this Act, "collective agreement" means an agreement -

- (a) which is between -
 - (i) any employer or employers, and
 - (ii) any workmen or any trade union or trade unions consisting of workmen, and
- (b) which relates to the terms and conditions of employment of any workman, or to the privileges, rights or duties of any employer or employers or any workmen or any trade union or trade unions consisting of workmen, or to the manner of settlement of any industrial dispute.

(2) Reference shall be made in the collective agreement to the parties and trade unions to which, and the employers and workmen to whom, the agreement relates.

Transmission of collective agreement to Commissioner and publication of such agreement.
[§ 5,62 of 1957.]

6. Where a collective agreement in respect of any industry in any district has been reduced to writing and signed by both the parties to the agreement or by the representative of each party thereto, any such party or any trade union or employer constituting or included in any such party may transmit the agreement to the Commissioner; and the Commissioner shall forthwith cause the agreement to be published in the *Gazette*:

[§ 5.62 of 1957.]

Provided that where such agreement contains provisions relating to the terms and conditions of employment of any workmen in such industry, the Commissioner shall not cause such agreement to be so published unless he is satisfied that those terms and conditions are not less favourable than those applicable to any other workmen in the same or a similar industry in such district.

For the purposes of this section, terms and conditions of employment set out in any other collective agreement shall not be deemed to be applicable to any workmen, unless the agreement has been published in the *Gazette* under this section and is for the time being in force.

Date on which collective agreement comes into force, and its duration.

7. (1) Every collective agreement which is published in the *Gazette* under section 6 shall come into force on the date of such publication or on such date, if any, as may be specified in that behalf in the agreement.

(2) Where any collective agreement provides that the agreement shall have effect for any period or until any date specified therein, such agreement shall continue in force with effect from the date on which it comes into force as provided in subsection (1) until the end of the period or until the date so specified, unless it ceases earlier to have effect as provided in section 9.

(3) Where no period or date is specified in any collective agreement as the period during which or the date until which the agreement shall have effect, the agreement shall continue in force with effect from the date on which it comes into force as provided in subsection (1), until it ceases to have effect as provided in section 9.

Effect of a collective agreement.

8. (1) Every collective agreement which is for the time being in force shall, for the purposes of this Act, be binding on the parties, trade unions, employers and workmen referred to in that agreement in accordance with the provisions of section 5(2); and the terms of the agreement shall be implied terms in the contract of employment between the employers and workmen bound by the agreement.

[§ 6.62 of 1957.]

(2) Where there are any workmen in any industry who are bound by a collective agreement, the employer in that industry shall, unless there is a provision to the contrary in that agreement, observe in respect of all other workmen in that industry terms and conditions of employment which are not less favourable than the terms and conditions set out in that agreement.

Termination of a collective agreement.

9. (1) Any party, trade union or employer, bound by a collective agreement, may repudiate the agreement by written notice in the prescribed form sent to the Commissioner and to every other party, trade union and employer bound by the agreement:

Provided that any employer, who is a member of a trade union which is, or is included in, a party bound by the agreement, shall not be entitled to repudiate such agreement independently of such trade union; and any notice of repudiation given independently by any such employer shall not be a valid notice for the purposes of this Act.

(2) Where a valid notice of repudiation of a collective agreement is received by the Commissioner, then, subject as hereinafter provided -

(a) the agreement to which such notice relates shall terminate and cease to have effect upon the expiration of the month immediately succeeding the month in which the notice is so received by the Commissioner; and

(b) the Commissioner shall cause the notice of repudiation to be published in the *Gazette*, together with a declaration as to the time at which the agreement shall terminate as provided in paragraph (a):

Provided that where valid notice of repudiation of any agreement is given by one or some only, but not all, of the trade unions or employers included in a party to the agreement, such agreement shall cease to have effect only in relation to each trade union or employer giving such notice and to the members of any such union, but shall otherwise continue in force and have effect accordingly.

Orders in respect of employers on whom certain collective agreements are not binding as provided in section 8. [S 2,14 of 1957.]

10. (1) Where the parties to a collective agreement that is in force are one or more trade unions consisting of employers in any industry and one or more trade unions consisting of workmen in such industry, then, if the Minister considers that those parties are sufficiently representative -

- (a) of the employers and the workmen, or
- (b) of a class of employers and a class of workmen, or
- (c) of the employers and a class of workmen, or
- (d) of a class of employers and the workmen,

in such industry in such district, or in such industry in Sri Lanka, he may make an order under subsection (2) in respect of every employer, or of every employer of such class of employers, in such industry in such district or in such industry in Sri Lanka, on whom such agreement is not binding as provided in section 8.

[§ 2,14 of 1957.]

(2) In accordance with the provisions of subsection (1), the Minister may, in respect of any industry to which any such collective agreement as is referred to in subsection (1) relates, make an order that every employer, or every employer of any class, in such industry in any district or in Sri Lanka, on whom that agreement is not binding as provided in section 8, shall observe either the terms and conditions set out in that agreement (hereinafter referred to as the “recognized terms and conditions”) or terms and conditions which are not less favourable than the recognized terms and conditions.

[§ 2,14 of 1957.]

(3) Every order under subsection (2) shall be published in the *Gazette* and in one Sinhala newspaper, one Tamil newspaper and one English newspaper, and shall, upon such publication, have the force of law.

[§ 2,14 of 1957.]

(4) Before an order under subsection (2) is made -

- (a) the Commissioner shall cause a notice of the intention of the Minister to make such order to be published in the *Gazette* and in one Sinhala newspaper, one Tamil newspaper and one English newspaper, and such notice shall specify a date on or before which objections to the proposed order may be made in writing to the Commissioner, and
- (b) the objections received by the Commissioner shall be submitted by him with his observations thereon to the Minister for consideration.

[§ 2,14 of 1957.]

(5) The Minister shall consider all objections to the proposed order and may either not make the order, or make the order with or without any limitation as to its applicability.

[§ 2,14 of 1957.]

(6) A party to any such collective agreement as is referred to in subsection (1) may make an application in writing to the Commissioner for the making of an order under subsection (2) in respect of that agreement.

[§ 2,14 of 1957.]

(7) An order made under subsection (2) may be rescinded if the Minister considers it necessary.

[§ 2,14 of 1957.]

(8) An order made under subsection (2) shall cease to be in force when the collective agreement to which it relates ceases to be in force as provided in section 7.

[§ 2,14 of 1957.]

(9) If any question arises as to the nature, scope or effect of the recognized terms and conditions in any industry in any district or in Sri Lanka or as to whether an employer is observing the recognized terms and conditions or is observing terms and conditions which are not less favourable than the recognized terms and conditions, that question shall be decided by the Commissioner, subject to an appeal within the prescribed time and in the prescribed manner to the industrial court, and the decision of that court on that question shall be final.

[§ 2,14 of 1957.]

(10) An Extract from the *Gazette* containing an order made under subsection (2) or a notice of the intention to make an order under that subsection and purporting to have been printed by the Government Printer, or a copy of such order or notice purporting to have been certified to be a true copy by the Commissioner may be produced in any court in proof of such order or notice.

Interpretation of collective agreements.
[§ 7,62 of 1957.]

10A. If any question arises as to the interpretation of any collective agreement, any party to such agreement may, in the absence of any provision in that agreement as to who should interpret such question, refer such question for decision to the Commissioner and the Commissioner shall decide such question.

Duty of employer bound by a collective agreement to exhibit notice containing provisions of the agreement.
[§ 7,62 of 1957.]

10B. Every employer who is bound by a collective agreement shall keep exhibited conspicuously in the place where the industry to which that agreement relates is carried on a notice setting out the provisions of that agreement in the Sinhala, Tamil and English languages.

(B) SETTLEMENT BY CONCILIATION

Duties and powers of the Commissioner or an authorized officer for purposes of conciliation and time limit for conclusion of investigations into industrial disputes.
[§ 8,62 of 1957.]

11. (1) Where, in accordance with the provisions of section 3, the Commissioner himself endeavours to settle an industrial dispute by conciliation or an industrial dispute is referred to an authorized officer for such settlement, it shall be the duty of the Commissioner or that officer to endeavour to effect a settlement after such investigation as he may consider necessary of the matters in dispute; and for the purpose aforesaid it shall be lawful for him to take all such steps as he may deem fit for inducing the parties to the dispute to come to a fair and amicable settlement of the dispute.

[§ 8,62 of 1957.]

(2) Subject to such regulations as may be made under section 39 (1)(f) of this Act in respect of procedure, the Commissioner or an authorized officer conducting an investigation into an industrial dispute under this Part may lay down the procedure to be observed by him in the conduct of such investigation.

[§ 7,62 of 1957.]

(3) Every investigation for the purpose of settling an industrial dispute by conciliation shall be concluded within one month after the commencement of such investigation:

Provided that the Commissioner may extend the period within which such investigation shall be concluded.

Memorandum of settlement, report relating to the dispute, etc.
[§ 4,25 of 1956.]

12. (1) If the Commissioner or an authorized officer succeeds in settling an industrial dispute, a memorandum setting out the terms of settlement shall be drawn up by the Commissioner or the officer and shall be signed by both the parties to the dispute or by the representatives of each party thereto.

(2) Reference shall be made in every memorandum of settlement drawn up under subsection (1) to the parties and trade unions to which, and employers and workmen to whom, such memorandum relates.

(3) Where the dispute has been settled by an authorized officer, he shall transmit forthwith to the Commissioner the memorandum setting out the terms of settlement.

(4) Where the Commissioner or an authorized officer, after endeavouring to effect a settlement of an industrial dispute, fails to effect such a settlement, such Commissioner or such officer shall, at the close of his investigation, prepare a full report regarding the dispute and shall set out in such report the steps taken by him for its investigation and settlement, and his recommendation for the settlement of the dispute.

In the settlement recommended reference shall be made to the parties and trade unions to which, and the employers and workmen to whom, such settlement relates.

(5) Where a report has been prepared by an authorized officer under subsection (4), he shall forthwith transmit such report to the Commissioner.

(6) The Commissioner shall forthwith cause to be published in the *Gazette* every memorandum of settlement relating to an industrial dispute which in his opinion is a major dispute.

(7) (a) Where a report is prepared under subsection (4), then, if in endeavouring to settle the industrial dispute to which that report relates the officer who prepared that report had not submitted his recommendation for the settlement of that dispute to both the parties or to the representatives of both the parties to that dispute for their consideration, the Commissioner shall transmit a copy of that report to such parties or representatives and shall require them to state in writing to him, within fourteen days after such date as he shall specify in that behalf, whether they accept or reject the settlement recommended in that report. If no reply is received from such parties or representatives within the aforesaid fourteen days, such settlement shall be deemed to be accepted by them.

(b) Where the recommended settlement referred to in paragraph (a) of this subsection is accepted or is deemed under that paragraph to be accepted by both the parties to the industrial dispute to which that settlement relates or by their representatives -

- (i) the Commissioner shall cause to be published in the *Gazette* the report in which that settlement is set out and the statement of acceptance made by such parties or representatives or, if the acceptance is deemed under the aforesaid paragraph (a), a statement by the Commissioner that the acceptance is so deemed, and
- (ii) that settlement shall have effect as though it were a settlement signed by both the parties to the industrial dispute to which that settlement relates or by their representatives, and accordingly section 13 shall apply to the report in which that settlement is set out as though that report were a memorandum of settlement, and section 14 shall apply to that settlement as though the reference in that section to section 12(2) were a reference to section 12(4).

(c) Where the recommended settlement referred to in paragraph (a) of this subsection is neither accepted nor deemed under that paragraph to be accepted by both the parties to the industrial dispute to which such settlement relates or by their representatives, then, if the Commissioner is of the opinion that such report should be published, the Commissioner shall cause such report to be published in the *Gazette* together with a statement that the settlement recommended in such report has neither been accepted nor deemed under paragraph (a) of this subsection to be accepted by such parties or representatives.

Date on which a settlement comes into force and its duration.

13. (1) Every memorandum of settlement which has been published in the *Gazette* under section 12(6) shall come into force on the date of its publication in the *Gazette* or on such date, if any, as may be specified in that behalf in the memorandum. Every memorandum of settlement which has not been published in the *Gazette* under that section shall come into force on the date of the signing of that memorandum by the parties to the dispute or by their representatives or on such date, if any, as may be specified in that behalf in the memorandum.

(2) Where any memorandum of settlement provides that the settlement shall have effect for any period or until any date specified therein, such settlement shall continue in force with effect from the date on which it comes into force as provided in subsection (1), until the end of the period or until the date so specified, unless it ceases earlier to have effect as provided in section 15.

(3) Where no period or date is specified in any memorandum as the period during which or the date until which the settlement shall have effect, the settlement shall continue in force with

effect from the date on which it comes into force as provided in subsection (1) until it ceases to have effect as provided in section 15.

Effect of a settlement.

14. Every settlement which is for the time being in force shall, for the purpose of this Act, be binding on the parties, trade unions, employers and workmen referred to in that settlement in accordance with the provisions of section 12(2) and the terms of the settlement shall be implied terms in the contract of employment between the employers and workmen bound by the settlement.

Termination of settlement.

15. (1) Any party, trade union, employer or workman, bound by a settlement under this Act, may repudiate the settlement by written notice in the prescribed form sent to the Commissioner and to every other party, trade union, employer and workman bound by the settlement:

Provided that :-

- (a) it shall not be necessary for any employer or any workman who is a member of a trade union which is, or is included in, a party bound by the settlement to be so notified independently of his trade union; and
- (b) any employer or workman, who is a member of a trade union which is, or is included in, a party bound by the settlement, shall not be entitled to repudiate the settlement independently of such Trade Union, and any notice of repudiation given independently by any such employer or workman shall not be a valid notice for the purposes of this Act.

(2) Where a valid notice of repudiation of a settlement is received by the Commissioner, then, subject as hereinafter provided :-

- (a) the settlement to which such notice relates shall terminate and cease to have effect upon the expiration of the month immediately succeeding the month in which the notice is so received by the Commissioner;
- (b) the Commissioner shall cause the notice of repudiation to be published in the *Gazette*, together with a declaration as to the time at which the settlement shall terminate as provided in paragraph (a):

Provided however, that where valid notice of repudiation of any settlement is given by one or some only, but not all, of the trade unions, employers or workmen included in a party to the settlement, such settlement shall cease to have effect only in relation to each trade union, employer or workman giving such notice and to the members of any such union, but shall otherwise continue in force and have effect accordingly.

(C) SETTLEMENT BY ARBITRATION

Interpretation of expression "arbitrator".
[§ 9,62 of 1957.]

15A. In the succeeding provisions of this Act, the expression "arbitrator" includes a labour tribunal.

Statement specifying matters in dispute.
[§ 10,62 of 1957.]

16. Every order under section 3(1)(d) referring an industrial dispute for settlement by arbitration to an arbitrator or a body of arbitrators (and accordingly the expression "arbitrator" shall hereafter in this Act be construed, where an industrial dispute has been referred to an arbitrator, as a reference to that arbitrator, or, where such dispute has been referred to a body of arbitrators, as a reference to that body of arbitrators), or every order under section 4(1) referring such dispute to an arbitrator for settlement by arbitration shall be accompanied by a statement prepared by

[§ 4, 4 of 1962.] the Commissioner setting out each of the matters which to his knowledge is in dispute between the parties.

Nothing in the preceding provisions of this section shall be deemed to be in derogation of the power of the arbitrator to whom the dispute is referred to admit, consider and decide any other matter which is shown to his satisfaction to have been a matter in dispute between the parties prior to the date of the aforesaid order, provided such matter arises out of or is connected with a matter specified in the statement prepared by the Commissioner.

Duties and powers of arbitrator.
[§ 11,62 of 1957.]
[§ 11,62 of 1957.]

17. (1) When an industrial dispute has been referred under section 3(1)(d) or section 4(1) to an arbitrator for settlement by arbitration, he shall make all such inquiries into the dispute as he may consider necessary, here such evidence as may be tendered by the parties to the dispute, and thereafter make such award as may appear to him just and equitable. A labour tribunal shall give priority to the proceedings for the settlement of any industrial dispute that is referred to it for settlement by arbitration.

(2) Reference shall be made in every award of an arbitrator to the parties and trade unions to which, and the employers and workmen to whom, such award relates.

Publication of award, date on which it comes into force and its duration.

18. (1) The award of an arbitrator shall be transmitted to the Commissioner who shall forthwith cause the award to be published in the *Gazette*.

(2) Every award of an arbitrator shall come into force on the date of the award or on such date, if any, as may be specified therein, not being earlier than the date on which the industrial dispute to which the award relates first arose.

(3) Where any award of an arbitrator provides that the award shall have effect for any period or until any date specified therein, such award shall continue in force with effect from the date on which it comes into force as provided in subsection (2) until the end of the period or until the date so specified, unless it ceases earlier to have effect as provided in section 20.

(4) Where no period or date is specified in any award as the period during which or the date until which the award shall have effect, the award shall continue in force with effect from the date on which it comes into force as provided in subsection (2) unless it ceases to have effect as provided in section 20.

Effect of an award of an arbitrator.

19. Every award of an arbitrator made in an industrial dispute and for the time being in force shall, for the purposes of this Act, be binding on the parties, trade unions, employers and workmen referred to in the award in accordance with the provisions of section 17(2); and the terms of the award shall be implied terms in the contract of employment between the employers and workmen bound by the award.

Termination of arbitrator's award.

20. (1) Any party, trade union, employer or workman, bound by an award made by an arbitrator under this Act, may repudiate the award by a written notice in the prescribed form sent to the Commissioner and to every other party, trade union, employer and workman bound by the award:

Provided that -

(a) it shall not be necessary for any employer or any workman who is a member of a trade union which is, or is included in, a party bound by the award to be notified independently of such trade union; and

(b) any employer or workman who is a member of a trade union which is, or is included in, a party bound by the award, shall not be entitled to repudiate the award independently of such trade union, and any notice of repudiation given

independently by any such employer or workman shall not be a valid notice for the purposes of this Act.

(2) Where a valid notice of repudiation of an award is received by the Commissioner, then, subject as hereinafter provided-

(a) the award to which such notice relates shall cease to have effect upon the expiration of three months immediately succeeding the month in which the notice is so received by the Commissioner or upon the expiration of twelve months from the date on which the award came into force as provided in section 18(2), whichever is the later; and

(b) the Commissioner shall cause such notice to be published in the *Gazette*, together with a declaration as to the time at which the award shall cease to have effect as provided in paragraph (a):

Provided, however, that where valid notice of repudiation of any award is given by one or some only, but not all, of the trade unions, employers or workmen included in a party bound by the award, such award shall cease to have effect only in relation to each trade union, employer or workman giving such notice and to the members of any such union, but shall otherwise continue in force and have effect accordingly.

Provisions relating to arbitration in other written law not to apply to proceedings before arbitrator.

21. The provisions of the Arbitration Ordinance and the provisions relating arbitration in the Civil Procedure Code shall not apply to proceedings before an arbitrator under this Act.

PART IV

INDUSTRIAL COURTS

Constitution.
[§ 12,62 of 1957.]

*22. (1) For the purposes of this Act, the President may from time to time appoint a panel, of not less than five persons, from which industrial courts shall be constituted as hereinafter provided.

[§ 12,62 of 1957.]

(2) Every person appointed under subsection (1) shall, unless he earlier vacates his office, hold office for such period not exceeding three years as the President may determine at the time of the appointment:

Provided that where any such person is on the date of expiry of his period of appointment functioning as a member of an industrial court which is conducting an inquiry under this Act, he shall continue to hold office until that inquiry is concluded and a decision is taken or an award is made.

Any person appointed under subsection (1) who vacates office by effluxion of time shall be eligible for reappointment.

[§ 12,62 of 1957.]

(3) For the purposes of constituting an industrial court to exercise any power, perform any duty, or discharge any function, under this Act, the Minister shall, accordingly as he may in his discretion determine, select from the panel either one person or three persons to constitute the industrial court.

[§ 12,62 of 1957.]

(4) Where an industrial court consists of three persons, a member of the court nominated by the Minister shall be the president of the court.

[§ 12,62 of 1957.]

(5) Regulations may be made prescribing the form and manner in which industrial disputes, applications and questions may be referred under this Act to industrial courts, and in which appeals under this Act may be preferred to such courts.

* Sections 21 A to 21 D are repealed by Act, No. 39 of 1968.

Statement for industrial court specifying matters in dispute.

23. Every order of the Minister under section 4 referring a dispute for settlement by an industrial court shall be accompanied by a statement prepared by the Commissioner setting out each of the matters which to his knowledge is in dispute between the parties.

Nothing in the preceding provisions of this section shall be deemed to be in derogation of the power of the industrial court to which the dispute is referred to admit, consider and decide any other matter which is shown to the satisfaction of the court to have been a matter in dispute between the parties prior to the date of the aforesaid order.

Duties and powers of industrial courts.

24. (1) It shall be the duty of an industrial court to which any dispute, application or question or other matter is referred or made under this Act, as soon as may be, to make all such inquiries and hear all such evidence, as it may consider necessary, and thereafter to take such decision or make such award as may appear to the court just and equitable.

(2) Subject to such regulations as may be made under section 39(1)(f) of this Act in respect of procedure, an industrial court conducting an inquiry under this Part may lay down the procedure to be observed by such court in the conduct of the inquiry.

(3) Reference shall be made in every award of an industrial court to the parties and trade unions to which, and the employers and workmen to whom, such award relates.

(4) Where an industrial court consists of more than one person, the opinion on any matter of the majority of the members of the courts shall prevail, and shall be deemed to be the decision of the court on that matter.

Publication of award, date on which it comes into force, and its duration.

25. (1) The award of an industrial court shall be transmitted to the Commissioner who shall forthwith cause the award to be published in the *Gazette*.

(2) Every award of an industrial court shall come into force on the date of the award or on such date, if any, as may be specified therein, not being earlier than the date on which the industrial dispute to which the award relates first arose.

(3) Where any award of an industrial court provides that the award shall have effect for any period or until any date specified therein, such award shall continue in force with effect from the date on which it comes into force as provided in subsection (2) until the end of the period or until the date so specified, unless it ceases earlier to have effect as provided by section 30.

(4) Where no period or date is specified in any award as the period during which or the date until which the award shall have effect, the award shall continue in force with effect from the date on which it comes into force as provided in subsection (2), until it ceases to have effect as provided by section 30.

Effect of an award of an industrial court.

26. Every award of an industrial court made in an industrial dispute and for the time being in force shall, for the purposes of this Act, be binding on the parties, trade unions, employers and workmen referred to in that award in accordance with the provisions of section 24(3); and the terms of the award shall be implied terms in the contract of employment between the employers and workmen bound by the award.

Application for reconsideration of awards of industrial courts.

27. Any party, trade union, employer or workman, bound by the award of an industrial court, who desires that such award be set aside or replaced by a new award, or that the terms and conditions be modified, or that any new terms or conditions be inserted in the award, may make application in that behalf to the Minister; and the Minister shall thereupon refer the application for consideration by an industrial court:

Provided, however that -

- (a) where any application in respect of any award is made at any time within the period of twelve months from the date on which the award came into force as provided in subsection (2) of section 25, the application shall not be entertained by the Minister unless it is supported by a certificate under the hand of the Commissioner to the effect that a change in the economic and labour conditions warrants the reconsideration of the findings in that award before the expiry of that period; and
- (b) where a trade union is, or is included in, a party bound by an award, no application in respect of that award made independently of that trade union by any employer or workman who is a member of that trade union, shall be entertained by the Minister.

Duties and powers of industrial courts in relation to applications under section 27.

28. (1) An industrial court to which an application under section 27 in relation to any award is referred may in its decision-

- (a) confirm the award;
- (b) set aside the award;
- (c) set aside the award and make a new award in place thereof; or
- (d) vary or modify the award in such manner as may appear necessary.

(2) Reference shall be made, in every new award under subsection (1) and in every decision under that subsection varying or modifying any award, to the parties and trade unions to which, and the employers and workmen to whom, such new award or such decision relates.

Publication of decision given under section 28.

29. Every decision given under section 28 shall be transmitted to the Commissioner who shall forthwith cause the decision to be published in the *Gazette*.

Effect of decisions given under section 28.

30. (1) Every award which is set aside by a decision of an industrial court under section 28(1)(b) shall cease to have effect on the date of that decision or on such later date as may be specified in the decision.

(2) Every award which is varied or modified on an application made under section 27 by a decision of an industrial court shall, on an after the date of such decision or on and after such other date, if any, as may be specified in that decision, not being earlier than the date of such application, have effect and continue in force as so varied or modified.

(3) The variation or modification of any award as hereinbefore provided shall not affect the continuance in operation of that award as so varied or modified, in accordance with the provisions of subsections (3) and (4) of section 25, or the right to make a further application in respect thereof under section 27:

Provided, however, that no application under section 27, in respect of any matter dealt with in the decision by which such variation or modification was effected, may be made within the period of twelve months from the date of such decision, unless such application is supported by a certificate under the hand of the Commissioner to the effect that a change in the economic and labour conditions warrants a reconsideration of the findings set out in the decision before the expiry of that period.

(4) A new award made under section 28(1)(c) on an application under section 27 shall come into force on the date of such award or on such other date, if any, as may be specified in that decision, not being earlier than the date of such application, and, such award, for the purposes of the application of the provisions of subsections (3) and (4) of section 25, and of the provisions of section 26 to 29, shall be deemed to be an award made under section 24.

Vacancies.

31. (1) Whenever an industrial court consists of more than one person and there is a vacancy in such court, the court may act notwithstanding such vacancy.

[§ 13,62 of 1957.]

(2) Where an industrial court consists of more than one person and any such person is unable to function owing to illness or any other reason, the Minister shall, if the person unable to function is the president of the court, select another person from the panel and appoint him as the president of the court in place of the person who is unable to function as such president, and may, if the person unable to function is not the president of the court, select another person from the panel and appoint him as a member of the court in place of the person who is unable to function.

[§ 13,62 of 1957.]

(3) Where an industrial court consists of one person and he is unable to function owing to illness or any other reason, the Minister shall reconstitute the court by selecting another person from the panel to take the place of the first-mentioned person.

[§ 13,62 of 1957.]

(4) Where a vacancy occurs in an industrial court after an inquiry by the court into an industrial dispute has commenced and the vacancy is filled under subsection (2) or subsection (3), the inquiry may be continued from the stage at which it was when the vacancy was filled.

[§ 13,62 of 1957.]

(5) No act, proceeding or determination of an industrial court shall be called in question or invalidated by reason of any vacancy in the court.

[§ 14,62 of 1957.]

PART IV A

LABOUR TRIBUNALS

Establishment and constitution of labour tribunals.

[§ 14,62 of 1957.]

31A. (1) There shall be established for the purposes of this Act such number of labour tribunals as the Minister shall determine. Each labour tribunal shall consist of one person.

[§ 2,11 of 2003.]

(1A) There shall be appointed in respect of the labour tribunals established under subsection (1) a Secretary, and in respect of each labour tribunal so established, an Assistant Secretary.

(2) The Minister in charge of the subject of Justice may, with the concurrence of the Minister in charge of the subject of Labour, make regulations, prescribing-

(a) the manner in which applications under section 31B may be made to a labour tribunal; and

(b) the procedure to be observed by a labour tribunal in any proceedings before that tribunal under this Part.

Applications to a labour tribunal.

[§ 14,62 of 1957.]

31B. (1) A workman or a trade union on behalf of a workman who is a member of that union, may make an application in writing to a labour tribunal for relief or redress in respect of any of the following matters:-

(a) the termination of his services by his employer;

[§ 17,12 of 1983.]

(b) the question whether any gratuity or other benefits are due to him from his employer on termination of his services and the amount of such gratuity and the nature and extent of any such benefits, where such workman has been employed in any industry employing less than fifteen workmen or any date during the period of twelve months preceding the termination of the services of the workman who makes the application or in respect of whom the application is made to the tribunal;

(c) the question whether the forfeiture of a gratuity in terms of the Payment of Gratuity Act, No. 12 of 1983 has been correctly made in terms of that Act; and

(d) such other matters relating to the terms of employment, or the conditions of labour, of a workman as may be prescribed.

[§ 5.4 of 1962.]

(2) A labour tribunal shall -

- (a) where it is satisfied after such inquiries as it may deem necessary that the matter to which an application under subsection (1) of this section relates is under discussion with the employer of the workman to whom that application relates by a trade union of which that workman is a member, make order suspending its proceedings upon that application until the conclusion of that discussion, and upon such conclusion shall resume the proceedings upon that application, and, if a settlement is reached in the course of that discussion, shall make order according to the terms of such settlement, and
- (b) where it is so satisfied that such matter constitutes, or forms part of, an industrial dispute referred by the Minister under section 4 for settlement by arbitration to an arbitrator, or for settlement to an industrial court, make order dismissing the application without prejudice to the rights of the parties in the industrial dispute.

(3) Where an application under subsection (1) relates -

- (a) to any matter which, in the opinion of the tribunal, is similar to or identical with a matter constituting or included in an industrial dispute to which the employer to whom that application relates is a party and into which an inquiry under this Act is held, or
- (b) to any matter the facts affecting which are, in the opinion of the tribunal facts affecting any proceedings under any other law,

the tribunal shall make order suspending its proceedings upon that application until the conclusion of the said inquiry or the said proceedings under any other law, and upon such conclusion the tribunal shall resume the proceedings upon that application and shall in making an order upon that application, have regard to the award or decision in the said inquiry or the said proceedings under any other law.

(4) Any relief or redress may be granted by a labour tribunal to a workman upon an application made under subsection (1) notwithstanding anything to the contrary in any contract of service between him and his employer.

(5) Where an application under subsection (1) is entertained by a labour tribunal and proceedings thereon are taken and concluded, the workman to whom the application relates shall not be entitled to any other legal remedy in respect of the matter to which that application relates, and where he has first resorted to any other legal remedy, he shall not thereafter be entitled to the remedy under subsection (1).

(6) Notwithstanding that any person has ceased to be an employer,-

- (a) an application claiming relief or redress from such person may be made under subsection (1) in respect of any period during which the workman to whom the application relates was employed by such person, and proceedings thereon may be taken by a labour tribunal,
- (b) if any such application was made while such person was such employer, proceedings thereon may be commenced or continued and concluded by a labour tribunal, and
- (c) a labour tribunal may on any such application order such person to pay to that workman any sum as wages in respect of any period during which that workman was employed by such person, or as compensation as an alternative to the reinstatement of that workman or as any gratuity payable to that workman by such person, and such order may be enforced against such person in like manner as if he were such employer.

[§ 3, Law 53 of 1973.]
[§ 2.21 of 2008.]

(7) Every application to a labour tribunal under paragraph (a) or paragraph (b) of subsection (1) of this section in respect of any workman shall be made within a period of six months from the date of termination of the services of that workman.

Duties and powers of a labour tribunal in regard to applications under section 31B.

31C. (1) Where an application under section 31B is made to a labour tribunal, it shall be the duty of the tribunal to make all such inquiries into that application and hear all such evidence as the tribunal may consider necessary, and thereafter make not later than six months from the such order as may appear to the tribunal to be just and equitable.

[§ 3, 32 of 1990.]

(2) A labour tribunal conducting an inquiry shall observe the procedure prescribed under section 31A, in respect of the conduct of proceedings before the tribunal.

Appeal to High Court on question of law arising out of the order of a labour tribunal.
[§ 4,32 of 1990.]

* (2) Save as provided in subsection (3) an order of a labour tribunal shall be final and shall not be called in question in any court.

(3) Where the workman who, or the trade union which, makes an application to a labour tribunal, or the employer to whom that application relates is dissatisfied with the order of the tribunal on that application, such workman, trade union or employer may, by written petition in which the other party is mentioned as the respondent, appeal from that order on a question of law, to the High Court established under Article 154P of the Constitution, for the Province within which such labour tribunal is situated.

(4) Every employer who -

(a) appeals to a High Court established under Article 154P of the Constitution, against an order of a labour tribunal or makes an application in revision against any such order; or

(b) makes an application for the issue of an order in the nature of a writ of *certiorari*, prohibition, *procedendo* or *mandamus* against the President of a labour tribunal, in respect of an order made by such President,

shall furnish to such labour tribunal, security in cash -

(i) in any case where the order which is the subject of such appeal or application directs only the payment of a sum of money to the workman, of an amount equal to such sum;

(ii) in any case where the order which is the subject of such appeal or application directs only the reinstatement of the workman, of an amount equal to twelve times the monthly salary or wages of such workman at the time his services were terminated;

(iii) in any case where the order which is the subject of such appeal or application directs both the payment of a sum of money to the workman and his re-instatement, of an amount equal to such sum and twelve times the monthly salary or wages of such workman at the time his services were terminated.

Where an employer is required under the preceding paragraphs of this subsection to furnish security of an amount equal to twelve times the monthly salary or wages of a workman, such monthly salary or wages shall, in the case of a daily paid workman, be deemed to be twenty-six times the daily wages of such workman.

(5) The President of every labour tribunal shall cause all moneys furnished as security under subsection (4), to be deposited in an account bearing interest, in any approved bank in Sri Lanka.

* Subsection (1) repealed by Act, No. 11 of 2003.

[§ 4,11 of 2003.] (6) Every petition of appeal to a High Court established under Article 154P shall bear uncanceled stamps to the value of five rupees and in every case where the applicant is required to furnish security, be accompanied by a certificate issued under the hand of the President of the labour tribunal to the effect that the appellant has furnished such security.

[§ 4,11 of 2003.] * (8) Every appeal or application referred to in subsection (4) shall be accompanied by a certificate issued under the hand of the President of the labour tribunal, to the effect that the appellant or the applicant as the case may be, has furnished the security which he is required to furnish under that subsection.

(9) The provisions of Chapter XXVIII of the Code of Criminal Procedure Act, relating to appeals from Magistrates' Court to the Court of Appeals shall, *mutatis mutandis*, apply in regard to all matters connected with the hearing and disposal of an appeal preferred under this section.

(10) In this section -

“approved bank” means any bank, which the Minister in charge of the subject of Finance, having regard to the interests of the depositors may appoint from time to time for the purposes of this section, by notification published in the *Gazette*; and

“employer” includes a person who has ceased to be an employer and is referred to in subsection (6) of section 31B.

Appeal to Supreme Court from High Court and powers of Supreme Court on appeal.
[§ 5,32 of 1990.]

31DD. (1) Any workman, trade union or employer who is aggrieved by any final order of a High Court established under Article 154P of the Constitution, in the exercise of the appellate jurisdiction vested in it by law or in the exercise of its revisionary jurisdiction vested in it by law, in relation to an order of a labour tribunal, may appeal therefrom to the Supreme Court with the leave of the High Court or the Supreme Court first had and obtained.

(2) The Supreme Court shall, have sole and exclusive cognizance by way of appeal from any order made by such High Court, in the exercise of the jurisdiction vested in such High Court by subsection (3) of section 31D, and it may affirm, reverse or vary any such order of such High Court and may issue such directions to any labour tribunal or order a new trial or further hearing in any proceedings as the justice of the case may require and may also call for and admit fresh or additional evidence if the interests of justice so demands and may in such event, direct that such evidence be recorded by such High Court or any labour tribunal.

Applications to Court of Appeal and appeals therefrom to Supreme Court to be disposed of within one year.
[§ 5,32 of 1990.]

† 31DDD. (1) Where an application is made to the Court of Appeal for the issue of an order in the nature of a writ of *certiorari*, prohibition, *procedendo* or *mandamus* against the President of a labour tribunal in respect of an order made by such President, the Court of Appeal shall hear and finally dispose of such application within one year of the date on which such application is filed in the Court of Appeal.

(2) Where an appeal is preferred to the Supreme Court against an order of the Court of Appeal on any such application as is referred to in subsection (1), the Supreme Court shall hear and finally dispose of such appeal within one year of the date on which such appeal is filed in the Supreme Court.

* Subsection (7) repealed by Act, No. 11 of 2003.

† Subsection (3) of section 31DD repealed by Act, No. 11 of 2003.

Payment of
security on
determination of
appeal or
application.
[§ 5,32 of 1990.]

31DDDD. (1) Where a High Court established under Article 154P of the Constitution, on an appeal preferred to it under section 31D or on an application in revision made to it against the order of a labour tribunal-

- (a) affirms the order of the labour tribunal which is the subject of such appeal or application, and no appeal is preferred under section 31DD to the Supreme Court, from such order of the High Court, within the time allowed therefor, the President of such labour tribunal shall cause the security furnished under section 31D (4), together with the accumulated interest thereon, to be paid to the workman;
- (b) reverses the order of the labour tribunal which is the subject of such appeal or application, and no appeal is preferred under section 31DD to the Supreme Court, from such order of the High Court within the time allowed therefor, the President of such labour tribunal shall cause the security furnished under section 31D(4), together with the accumulated interest thereon, to be returned to the employer;
- (c) varies the order of the labour tribunal which is the subject of such appeal or application and no appeal is preferred under section 31DD to the Supreme Court, from such order of the High Court, within the time allowed therefor, the President of the labour tribunal shall cause the sum required to satisfy the order of the High Court, together with interest on that sum, to be paid to the workman out of the security furnished under section 31D(4), and shall cause the balance, if any, of such security and interest thereon, to be returned to the employer.

(2) Where the Court of Appeal, on an application made to it for the grant of an order in the nature of a writ of *certiorari*, prohibition, *procedendo* or *mandamus*, in respect of an order of a labour tribunal -

- (a) refuses the application, and no appeal is preferred to the Supreme Court against such refusal, within the time allowed therefor, the President of the labour tribunal shall cause the security furnished under section 31(4), together with the accumulated interest thereon, to be paid to the workman;
- (b) quashes the order of the labour tribunal, and no appeal is preferred to the Supreme Court against the order of the Court of Appeal, within the time allowed therefor, the President of such labour tribunal shall cause the security furnished under section 31D(4), together with the accumulated interest thereon, to be returned to the employer;
- (c) varies the order of the labour tribunal, and no appeal is preferred to the Supreme Court from the order of the Court of Appeal, within the time allowed therefor, the President of such labour tribunal shall cause the sum required to satisfy the order of the Court of Appeal, together with interest on that sum, to be paid to the workman out of the security furnished under section 31D(4) and shall cause the balance, if any, of such security and interest thereon, to be returned to the employer.

(3) Where the Supreme Court in any of the following causes, that is to say, on an appeal preferred to it under section 31DD appeal preferred to it under section 31DD under Article 154P of the Constitution, or on an appeal preferred to it against an order of such High Court on an application in revision made to such High Court against an order of a labour tribunal, or on an appeal preferred to it from an order of the Court of Appeal allowing or refusing an application for the grant of an order in the nature of a writ of *certiorari*, prohibition, *procedendo* or *mandamus* against the President of a labour tribunal in respect of an order made by such President, or varying the order of such labour

tribunal :-

- (a) affirms the order of the labour tribunal which is the subject of such appeal, the President of such labour tribunal shall cause the security furnished under section 31D(4), together with the accumulated interest thereon, to be paid to the workman;
- (b) reverses the order of the labour tribunal which is the subject of such appeal, the President of such labour tribunal shall cause the security furnished under section 31D(4), together with the accumulated interest thereon, to be returned to the employer;
- (c) varies the order of the labour tribunal which is the subject of the appeal the President of such labour tribunal shall cause the sum required to satisfy the order of the Supreme Court, together with interest on that sum, to be paid to the workman out of the security furnished under section 31D(4) and shall cause the balance, if any, of such security and interest thereon, to be returned to the employer.

PART IVB

[§ 7.4 of 1962.]

PROVISIONS RELATING TO RETRENCHMENT OF WORKMEN

Application of
this Part.
[§ 7.4 of 1962.]

31E. (1) The provisions of this Part shall not apply -

- (a) to any employer by whom less than fifteen workmen on an average have been employed for a working day in the month preceding the month in which notice of the intention to effect retrenchment in respect of any workman employed is given by the employer to that workman, or
- (b) to any industry which is of a seasonal character or in which work is performed intermittently, or
- (c) to the retrenchment of any workman who has been employed in any industry for a period which is less than one year.

(2) Where the Minister is of the opinion that the application of this Part to an industry is likely to affect that industry in such a manner as to cause serious repercussions to that industry, the Minister may by Order published in the *Gazette* declare that this Part shall not apply, or shall apply subject to such conditions as may be specified in that Order, to that industry.

Any Order made by the Minister under this subsection shall be placed as soon as practicable before Parliament for approval. Any Order not so approved shall be deemed to have been of no effect.

(3) In the computation of the number of workmen for the purposes of subsection (1) (a), any workman who has been employed in the industry for a period of less than one year shall also be taken into account.

(4) If any question arises as to whether an industry is of a seasonal character or whether work in that industry is done only intermittently, such question shall be determined by the Commissioner and his decision on that question shall be final and conclusive.

Duty of employer to give notice of intended retrenchment to the workman the trade union of which that workman is a member and to the Commissioner.
[§ 7,4 of 1962.]

31F. Where an employer intends to effect retrenchment in respect of any workman employed in an industry carried on by that employer, he shall, unless such retrenchment is in consequence of an agreement between the employer or the representative of the employer and the workman or the representative of the workman, or a settlement or award under this Act-

(a) give to that workman at least one month's notice in writing of such intention, and, if that workman is a member of a trade union, to that trade union, and

(b) send a copy of such notice to the Commissioner.

Retrenchment shall not be effected until after the expiry of two months after the date of the notice.
[§ 7,4 of 1962.]

31G. Subject to the provisions of section 31H no employer shall effect retrenchment in respect of any workman to whom he has given notice of his intention to do so until after the expiry of two months after the date of such notice.

Where an industrial dispute arising out of the intended retrenchment is referred for settlement, employer shall not effect the retrenchment within a period of two months, after the date of reference of such dispute.
[§ 7,4 of 1962.]

31H. Where, before the expiry of two months after the date of the notice referred to in section 31F, any industrial dispute which exists or is apprehended in consequence of the retrenchment intended in that notice is referred -

(a) by the Commissioner to an authorized officer for settlement by conciliation,

or

(b) by the Commissioner to an arbitrator for settlement by arbitration, or

[§ 5,27 of 1966.]

*(c) by the Minister to an arbitrator for settlement by arbitration, or to an industrial court for settlement,

the employer giving such notice shall not effect the intended retrenchment within a period of two months after the date of reference of such dispute unless such retrenchment is effected in terms of any settlement or award under this Act;

Provided, however, that where any such dispute is referred by the Commissioner to an authorized officer for settlement by conciliation and where the authorized officer fails to effect a settlement of such dispute, the employer may effect the intended retrenchment after the expiry of a period of thirty days calculated from the date of the report made under section 12(4) if such dispute has not within the aforesaid period of thirty days been referred for settlement by arbitration under section 3(1)(d) or section 4(1), or to an industrial court for settlement under section 4(2).

PART V

ESSENTIAL INDUSTRIES

Strikes and lock outs in essential industries.

32. (1) No employer shall commence, or continue or participate in, or do any act in furtherance of, a lock-out in connexion with any industrial dispute in any essential industry, unless written notice of intention to commence the lock-out had, at least twenty-one days before the date of the commencement of the lock-out been given in the prescribed manner and form by the employer or on his behalf to the workmen who will be affected by the lock-out.

* Paragraph (d) of section 31H is repealed by Act, No. 39 of 1968.

(2) No workman shall commence, or continue, or participate in, or do any act in furtherance of, any strike in connexion with any industrial dispute in any essential industry, unless written notice of intention to commence the strike had, at least twenty-one days before the date of the commencement of the strike, been given in the prescribed manner and form by such workman or on his behalf to his employer.

[§ 2, 56 of 1999.]

PART VA

UNFAIR LABOUR PRACTICES

Prohibition
of unfair
labour
practices
by
employers.

- 32 A. No employer shall-
- (a) require a workman to join, or refrain from joining, any trade union, or to withdraw from, or to refrain from withdrawing from, his membership of a trade union of which he is a member, as a condition of his employment;
 - (b) dismiss a workman by reason only of his membership of a trade union or of his engaging in trade union activities;
 - (c) give any inducement or promise to a workman for the purpose of preventing him from becoming, or continuing to be, a member, office - bearer or representative of a trade union;
 - (d) prevent a workman from -
 - (i) forming a trade union ; or
 - (ii) supporting a trade union by financial or other means;
 - (e) interfere with the conduct of the activities of a trade union;
 - (f) dismiss, or otherwise take disciplinary action against, any workman or office-bearer of a trade union -
 - (i) for any statement made by such workman or office-bearer in good faith before any tribunal or person in authority; or
 - (ii) for any statement regarding acts or omissions of the employer relating to the terms and conditions of employment, of the members of such trade union made by such workman or office bearer, in pursuance of an industrial dispute for the purpose of securing redress or amelioration of working conditions of such members;
 - (g) refuse to bargain with a trade union which has in its membership not less than forty *per centum* of the workmen on whose behalf such trade union seeks to bargain.

For the purpose of this paragraph the Commissioner of Labour or an officer authorized by him in that behalf may conduct a poll any work place in order to ascertain whether at least forty *per centum* of the workmen on whose behalf the trade union seeks to bargain with the employer, are members of such trade union.

PART VI

GENERAL

The terms of an award, or order of a labour tribunal.
[§ 15,62 of 1957.]

33. (1) Without prejudice to the generality of the matters that may be specified in any award under this Act or in any order of a labour tribunal, such award or such order may contain decisions-

[§ 15,62 of 1957.]

(a) as to wages and all other conditions of service, including decisions that any such wages and conditions shall be payable or applicable with effect from any specified date, which may, where necessary, be a date prior to the date of such award or such order, and decisions that wages shall be payable in respect of any period of absence by reason of any strike or lock-outs;

[§ 15,62 of 1957.]

(b) as to the reinstatement in service, or the discontinuance from service, of any workman whose dismissal or continuance in employment is a matter in dispute, or who was dismissed or ceased to be in service at the commencement or in the course of any strike or lock-out arising out of the industrial dispute;

[§ 8,4 of 1962.]

(c) as to the extent to which the period of absence from duty of any workman, whom the arbitrator, industrial court or labour tribunal has decided should be reinstated, shall be taken into account or disregarded for the purposes of his rights to any pension, gratuity or retiring allowance or to any benefit under any provident scheme;

[§ 8,4 of 1962.]

(d) as to the payment by any employer of compensation to any workman, the amount of such compensation or the method of computing such amount, and the time within which such compensation shall be paid;

(e) as to the payment by any employer of a gratuity or pension or bonus to any workman, the amount of such gratuity or pension or bonus and the method of computing such amount, and the time within which such gratuity or pension or bonus shall be paid.

[§ 15,62 of 1957.]

[§ 8,4 of 1962.]

[§ 15,62 of 1957.]

[§ 15,62 of 1957.]

[§ 15,62 of 1957.]

[§ 8,4 of 1962.]

(2) Where decisions under subsection (1) as to the payment of money by any employer to any workman, whether as wages in respect of any period prior to the date of the award or order of a labour tribunal or as compensation, gratuity or pension or bonus, are contained in any award, or order of a labour tribunal, the Magistrate's Court having jurisdiction in the area where the workman is or was employed by such employer shall, if satisfied on the written petition of the workman that payment of such money has not been made within the time specified in that behalf in the award or order of a labour tribunal, make order that the amount of such money shall be paid by such employer to such workman and that such amount, if not paid in compliance with the order, be recovered in like manner as a fine imposed by the court; and the amount so recovered shall be paid to such workman.

[§ 15,62 of 1957.]

(3) Where any award or order of a labour tribunal contains a decision under paragraph (b) of subsection (1) as to the reinstatement in service of any workman in any employment, then, if the employment is in the capacity of personal secretary, personal clerk, personal attendant or chauffeur, to the employer, or of domestic servant, or in any other prescribed capacity of a description similar to those hereinbefore mentioned, the award or order of a labour tribunal shall also contain a decision, under paragraph (d) of that subsection, as to the payment of compensation to the workman as an alternative to his reinstatement.

(4) For the purposes of the application of subsection (3) in any case where the employer is a company, the references therein to the employer shall be deemed to be references to the person (however designated) who is responsible for the general management of the business of the company.

[§ 15,62 of 1957.]

(5) Where the arbitrator, industrial court or labour tribunal considers that a decision should be made, under paragraph (b) of subsection (1), for the reinstatement in service of any workman, then, if the workman so requests, the arbitrator, industrial court or labour tribunal may, in lieu of making that decision, make a decision, under paragraph (d) of that subsection, for the payment of compensation to that workman; and in any such case, the provisions of subsection (2) shall apply as though the decision were for the payment of compensation as an alternative to reinstatement.

[§ 15,62 of 1957.]

[§ 15,62 of 1957.]

[§ 15,62 of 1957.]

(6) The provisions of subsections (3) and (5) shall not be construed to limit the power of the industrial court or a labour tribunal or an arbitrator, under paragraph (d) of subsection (1), to include in an award or order a decision as to the payment of compensation as an alternative to reinstatement, in any case where the court, tribunal or arbitrator thinks fit so to do.

Interpretation of an award by an arbitrator or an industrial court or an order of a labour tribunal.

[§ 16,62 of 1957.]

[§ 6,27 of 1966.]

[§ 2,39 of 1968.]

[§ 7,11 of 2003.]

34. (1) If any question arises as to the interpretation of any award made under this Act by an arbitrator or by an industrial court, or of an order made under this Act by a labour tribunal, other than an order made on an application made under section 31B of this Act, the Commissioner or any party, trade union, employer or workman, bound by the award or order, may refer such question for decision to such arbitrator or the person or persons who constituted such industrial court or to such labour tribunal, and if such reference is not possible for any reason whatsoever, may refer the question for decision to an industrial court; and the arbitrator to whom or the industrial court or the labour tribunal to which the question has been referred shall decide such question after hearing the parties, or without such hearing if the consent of the parties has been first obtained:

Provided that no employer or workman who is a member of any trade union shall, independently of such union, refer a question for decision under the preceding provisions of this subsection.

(2) The decision on a reference made under subsection (1) shall be transmitted to the Commissioner for publication in the *Gazette*, and shall be deemed to form part of and shall have the same effect in all respects as the original award.

Award of arbitrator or industrial court not to be less favourable than existing law.

[§ 7,27 of 1966.]

[§ 2,39 of 1968.]

35. Where any industrial dispute referred to any arbitrator or industrial court involves questions as to wages, or as to hours of work, or otherwise as to the terms or conditions of or affecting employment which are regulated by any written law other than this Act, the court or arbitrator shall not make any award the terms of which are less favourable than the provisions of such law.

Evidence, & c.

[§ 17,62 of 1957.]

[§ 9,4 of 1962.]

36. (1) any industrial court, labour tribunal, arbitrator, authorized officer or labour officer or the Commissioner shall, for the purposes of this Act, and the Commissioner or an Inspector of labour shall for the purpose of promoting a settlement of any industrial dispute by means other than those referred to in this Act, have power, by order -

[§ 17,62 of 1957.]

[§ 17,62 of 1957.]

(a) to require any person to furnish, in writing, such particulars as that court, tribunal, arbitrator or authorized officer or the Commissioner or that inspector may consider necessary;

[§ 17,62 of 1957.]

(aa) to require the parties or the representatives of the parties to an industrial dispute which is being investigated or inquired into by that court, tribunal, arbitrator or authorized officer or officer or the Commissioner or that inspector to be present for interrogation in regard to that dispute on such date and at such time and place as may be notified to them;

[§ 17,62 of 1957.]

[§ 17,62 of 1957.]

(b) to require any person to give evidence on oath or otherwise before that court, tribunal, arbitrator or authorized officer or the Commissioner or that inspector; and

[§ 17,62 of 1957.]

(c) to require any person to produce such documents as the court, tribunal, arbitrator or authorized officer or the Commissioner or that inspector may consider necessary.

(2) (a) Where a person upon being required by an authorized officer under subsection (1) to furnish any particulars or to produce any document, makes a declaration upon oath or an affirmation or a declaration verified by affidavit to the effect that the disclosure of the information required by the authorized officer would be prejudicial to his business or interests, such person shall not be bound to comply with the requirements, unless he is required by the Commissioner to furnish such particulars or to produce such document to the Commissioner.

(b) Any person furnishing any particulars, giving evidence, or producing any documents, under subsection (1), may make a written request that such particulars, evidence or documents should be treated as confidential, and where such a request is made, the industrial court, labour tribunal, arbitrator, authorized officer or Commissioner or inspector of labour, as the case may be, shall, if satisfied -

[§ 15,62 of 1957.]

(i) that the disclosure of the information provided by the particulars, evidence or documents to which the request relates, would be prejudicial to the business or interests of that person; and

(ii) that such information would not otherwise be available by other means, make order prohibiting the disclosure of such information without the prior consent of that person. Any person who contravenes any such order shall be guilty of an offence under this Act.

(3) Nothing in the preceding provisions of this section shall be deemed to require or authorize any person to disclose any information or to produce any document in any case where the disclosure or production by that person of such information or document is prohibited by or under the provisions of any written law other than this Act.

[§ 17,62 of 1957.]

(4) In the conduct of proceedings under this Act, any industrial court, labour tribunal arbitrator or authorized officer or the Commissioner shall not be bound by any of the provisions of the Evidence Ordinance.

[§ 17,62 of 1957.]

(5) The industrial court, arbitrator or labour tribunal may, at any time after the commencement of any proceedings in respect of an industrial dispute, permit any party or any trade union, employer or workman included in such party to raise any fresh matters relating to the dispute for the decision of such court, arbitrator or tribunal, if such court arbitrator or tribunal is satisfied that such matter could not have been raised at the commencement of the proceedings;

Provided that no employer or workman who is a member of a trade union shall be permitted to raise such matter independently of his trade union.

[§ 17,62 of 1957.]

(6) Where any fresh matter is raised under subsection (5) the party, trade union, employer or workman raising such matter shall give written notice of it to every other trade union, employer and workman included in such party and to the other party and to every trade union, employer and workman included in such other party;

Provided that it shall not be necessary for an employer or a workman who is a member of a trade union to be notified independently of his trade union.

Costs.

[§ 18,62 of 1957.]

37. All costs incidental to any proceedings before an arbitrator or an industrial court or a labour tribunal shall, subject to regulations made under this Act, be in the discretion of such arbitrator, court or tribunal, as the case may be.

Appointment of officers and servants.

38. There may be appointed such officers and servants as may be necessary for carrying out the provisions of this Act.

Regulations.

39. (1) The Minister may make regulations -

- (a) in respect of all matters which are stated or required by this Act to be prescribed;
- (b) in respect of all matters for which regulations are required or authorized to be made by or under this Act;
- (c) in respect of the issue and service or notice of and orders in proceedings under this Act in relation to any industrial dispute or other matter, and for specifying the officers, parties or persons by whom and to whom such notices shall be issued;
- (d) in respect of the scales of costs which may be allowed in proceedings under this Act;
- (e) in respect of the amount of the fees payable to persons appointed for the purposes of this Act and to witnesses summoned for such purposes;
- (f) in respect of the procedure to be observed by the industrial court, an arbitrator, the Commissioner or an authorized officer when inquiring into an industrial dispute;
- (ff) in respect of the procedure to be observed by a labour tribunal in any proceedings before that tribunal under Part IVA;
- (g) in respect of the powers of entry and inspection of the Commissioner and of authorized officers and other officer appointed under this Act; and
- (h) in respect of all matters necessary for carrying out the provisions of this Act or giving effect to the principles thereof.

[§ 8,27 of 1966.]

[§ 2,39 of 1968.]

[§ 15,62 of 1957.]

[§ 6,32 of 1990.]

(2) No regulation made by the Minister shall have effect until it is approved by Parliament and notification of such approval is published in the *Gazette*.

Every regulation so approved shall be as valid and effectual as though it were herein enacted.

Offences.

40. (1) Any person who -

- (a) being bound by a collective agreement or by a settlement under this Act or by an award of an arbitrator or an industrial court, does any act or aids, abets or incites the commission of any act in contravention of, or fails to comply with, any of the terms or conditions of that agreement, settlement or award;
- (b) being an employer bound by a collective agreement or by a settlement under this Act or by an award of an arbitrator or an industrial court keeps in his employment any workman on less favourable terms than those specified in that agreement, settlement or award;
- (c) being an employer, fails to comply with an order made under section 10(2) or contravenes the provisions of subsection (1) of section 32 or section 50;
- (d) being a workman, contravenes the provisions of subsection (2) of section 32;
- (e) being bound by a collective agreement or by a settlement under this Act or by an award of an arbitrator or an industrial court and being a workman or a person or a person other than a workman, incites or induces a workman to strike or to discontinue employment or work, with a view to procuring the alteration of any of the terms and conditions of that agreement, settlement or award;
- (f) being bound by a collective agreement or by a settlement under this Act or by an award of an arbitrator or an industrial court and being a workman, takes part in a strike or discontinues employment or work, with a view to procuring the alteration of any of the terms and conditions of that agreement, settlement or award;

[§ 9,27 of 1966.]

[§ 2,39 of 1968.]

[§ 20,62 of 1957.]

[§ 9,27 of 1966.]

[§ 2,39 of 1968.]

[§ 20,62 of 1957.]

[§ 10,4 of 1962.]

[§ 9,27 of 1966.]

[§ 2,39 of 1968.]

[§ 9,27 of 1966.]

[§ 2,39 of 1968.]

- [§ 20,62 of 1957.]
[§ 9,27 of 1966.]
[§ 2,39 of 1968.]
- (ff) being bound by a collective agreement or by a settlement under this Act or by an award of an arbitrator or an industrial court and being an employer commences a lock-out with a view to procuring the alteration of any of the terms and conditions of that agreement, settlement or award;
- [§ 20,62 of 1957.]
- (fff) takes part in a strike or discontinues employment or work with a view to procuring the alteration of any order made by a labour tribunal in respect of any application made to such tribunal under section 31B;
- [§ 20,62 of 1957.]
- (g) fails or refuses without reasonable cause to be present when required to do so under paragraph (aa) of subsection (1) of section 36, or fails or refuses to answer when interrogated under that paragraph, or to furnish any particulars or to give evidence or to produce any document which he is required to furnish, give or produce under the provisions of section 36;
- (h) furnishes, for the purposes of this Act, any information or gives any evidence which to his knowledge is untrue or incorrect;
- (i) in any proceedings under this Act before the Commissioner or before any authorized officer, arbitrator or industrial court, intentionally offers any insult or causes any interruption to such Commissioner, officer, arbitrator or court or any member thereof;
- (j) being an employer, dismisses or punishes in any other way any workman for the reason that the workman intends to give or has given evidence in any proceedings under this Act;
- [§ 10,4 of 1962.]
- (k) being an employer, without good cause terminates the services of, or reduces to a lower grade or class, or otherwise punishes, any workman for the reason that he has become entitled to the benefit of any collective agreement, or an order under section 10(2), or any settlement or award of an industrial court or arbitrator of an order of any labour tribunal under this Act;
- [§ 9,27 of 1966.]
[§ 2,39 of 1968.]
- (l) being an employer, commences, continues, or participates in, or does any act in furtherance of, a lock-out in any industry after an industrial dispute in that industry has been referred for settlement to an industrial court, or for settlement by arbitration to an arbitrator, but before an award in respect of such dispute has been made;
- [§ 20,62 of 1957.]
[§ 9,27 of 1966.]
[§ 2,39 of 1968.]
- (m) being a workman, commences, continues, or participates in, or does any act in furtherance of, a strike in any industry after an industrial dispute in that industry has been referred for settlement to an industrial court, or for settlement by arbitration to an arbitrator, but before an award in respect of such dispute has been made;
- [§ 20,62 of 1957.]
- (n) incites a workman to commence, continue, or participate in, or do any act in furtherance of, a strike in connection with any industrial dispute in any essential industry in contravention of section 32(2);
- [§ 20,62 of 1957.]
- (o) incites a workman to commence, continue or participate in, or do any act in furtherance of, a strike in any industry after an industrial dispute in that industry has been referred for settlement to an industrial court, or for settlement by arbitration to an arbitrator, but before an award in respect of such dispute has been made;
- [§ 9,27 of 1966.]
[§ 2,39 of 1968.]
- [§ 20,62 of 1957.]
[§ 9,27 of 1966.]
[§ 2,39 of 1968.]
- (p) being an employer, after an industrial dispute in any industry has been referred for settlement to an industrial court, or for settlement by arbitration to an arbitrator, but before an award in respect of such dispute has been made-
- [§ 9,27 of 1966.]
[§ 2,39 of 1968.]
- (i) terminates the services of, or punishes in any other way, without the approval in writing of such court or arbitrator, any workman concerned

- in such dispute, for any act or omission connected with, arising from or constituting or included in such dispute, or
- [§ 9,27 of 1966.]
[§ 2,39 of 1968.] (ii) in regard to any matter connected with such dispute, alters, to the prejudice of any workman concerned in such dispute, the conditions of service applicable to such workman immediately before the reference of such dispute to such court or arbitrator;
 - [§ 20,62 of 1957.] (q) being an employer, fails to comply with any order made in respect of him by a labour tribunal;
 - [§ 10,4 of 1962.] (r) being an employer, contravenes the provisions of section 44C or section 44D;
 - [§ 10,4 of 1962.] (s) being an employer, contravenes the provisions of section 31F or section 31G or section 31H;
 - [§ 3, 56 of 1999.] (ss) being an employer, contravenes the provisions of section 32A;
 - [§ 10,4 of 1962.] (t) fails to furnish such means required by any officer specified in section 44E as is necessary for any entry or inspection or the exercise of his powers under that section;
 - [§ 10,4 of 1962.] (u) hinders or molests any officer in the exercise of his powers under section 44E;
 - [§ 10,4 of 1962.] (v) refuses or fails without reasonable cause to produce any register or record or give any information which any officer requires him to give under the powers conferred by section 44E;
 - [§ 10,4 of 1962.] (w) prevents or attempts to prevent any other person from answering any question put by any officer to such other person during an interrogation of such other person under section 44E;
 - [§ 10,4 of 1962.] (x) makes or causes to be made any register or record which is false in any material particular or produces or causes or knowingly allows to be produced any such register or record to any officer acting under the powers conferred by section 44E, knowing such register or record to be false; or
 - [§ 10,4 of 1962.] (y) furnishes any information to any officer acting under the powers conferred by section 44E, knowing such information to be false,

shall be guilty of an offence under this Act.

(2) In any prosecution under the provisions of paragraphs (j) and (k) of the preceding subsection the burden of proving that the dismissal, punishment or reduction of a workman by an employer was not in contravention of those provisions shall lie on the employer.

[§ 10,4 of 1962.] (3) In any prosecution of an employer for an offence relating to compliance with any settlement or award under this Act, or with an order of a labour tribunal, or with an order under section 10(2), the burden of proving that the settlement, award, order of the labour tribunal or order under section 10(2) was complied with shall lie on the employer.

Offence of contempt against or in disrespect of the authority of an industrial court or a labour tribunal.
[§ 21,62 of 1957.]

40A. (1) Where any person -

- (a) without sufficient reason publishes any statement or does any other act that brings any arbitrator, industrial court or labour tribunal or any member of such court into disrepute during the progress or after the conclusion of any inquiry conducted by such arbitrator, court or tribunal; or
- (b) interferes with the lawful process of such arbitrator, court or tribunal,

such person shall be deemed to commit the offence of contempt against or in disrespect of the authority of such arbitrator, court or tribunal.

(2) Every offence of contempt committed against or in disrespect of the authority of any arbitrator or industrial court or labour tribunal shall be punishable by the Court of Appeal under Article 105 (3) of the Constitution as though it were an offence of contempt committed against or in disrespect of the Court of Appeal.

(3) Every complaint of a contempt committed against or in disrespect of the authority of any arbitrator or industrial court or labour tribunal shall be communicated to the President of the Court of Appeal by letter signed by the arbitrator, or by the president of the industrial court or, where such court consists of one person, by such person, or by the person presiding over such tribunal.

(4) The President of the Court of Appeal may, upon his receiving a communication under subsection (3), issue a rule *nisi* for contempt of court on the person named in that communication as having committed the offence of contempt referred to in that communication.

(5) A person on whom a rule *nisi* is issued under subsection (4) shall be liable to be punished unless he shows cause to the satisfaction of the Court of Appeal.

(6) In any proceedings against any person for the offence of contempt committed against or in disrespect of the authority of any arbitrator or industrial court or labour tribunal, such arbitrator or any member of such court or the person presiding over such tribunal shall not be liable to be summoned as a witness by the first-mentioned person, but the Court of Appeal may, if it considers it necessary to do so, examine such arbitrator or any member of the industrial court or the person presiding over such tribunal.

Offences by
bodies of persons.

41. In the case of any offence under this Act committed by a body of persons -

- (a) where the body of persons is a body corporate, every director and officer of that body corporate shall be deemed to be guilty of that offence;
- (b) where the body of persons is a firm, every partner of the firm shall be deemed to be guilty of that offence; and
- (c) where the body of persons is a trade union, every officer of the trade union shall be deemed to be guilty of that offence:

Provided that no such person shall be deemed to be guilty of an offence under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Special defence
open to a person
charged with an
offence.

42. Where a person (hereinafter in this section referred to as "the accused") is charged with an offence against this Act, the accused shall, upon complaint duly made by him in accordance with the provisions of section 136 of the Code of Criminal Procedure Act and on giving to the prosecution not less than three days' notice of his intention, be entitled, subject to the provisions of Chapter XIV of that Act, to have any other person whom he charges as the actual offender, brought before the court; and if, after the commission of the offence has been proved, the accused proves to the satisfaction of the court, that he has used due diligence to enforce the provisions of this Act and that such other person has committed the offence without his knowledge, consent or connivance, such other person shall be convicted of the offence and the accused shall be acquitted of the offence.

Punishment
of offences
[§ 22,62 of 1957.]
[§ 11,4 of 1962.]
[§ 4, 56 of 1999.]

43. (1) Without prejudice to the provisions of subsection (5) every person who commits any offence under this Act, other than an offence under section 40 (1) (ss), shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

[§ 4, 56 of 1999.]

(1A) Every person who commits an offence under section 40 (1) (ss) shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding twenty thousand rupees.

[§ 22,62 of 1957.]
[§ 2,39 of 1968.]
[§ 10,27 of 1966.]

(2) On the conviction of any employer for failure to comply with such term or condition of an award of any industrial court or arbitrator as requires the reinstatement of any workman in any service or an order of any labour tribunal requiring such reinstatement, such employer shall be liable-

[§ 11,4 of 1962.]

- (i) to pay, in addition to any punishment that may be imposed on such employer under subsection (1), a fine of rupees fifty for each day on which the failure is continued after conviction thereof;
- (ii) to pay such workman the remuneration which would have been payable to him if he had been in such service on each such day and on each day of the period commencing on the date on which he should have been reinstated in service according to the terms of the award or order and ending on the date of the conviction of such employer, computed at the rate of salary or wages to which he would have been entitled if his services had not been terminated.

Any sum which an employer is liable to pay under paragraph (ii) of this subsection may be recovered on the order of the court by which he was convicted as if it were a fine imposed on him by that court and the amount so recovered shall be paid to the workman.

[§ 11,4 of 1962.]

(3) On the conviction of an employer for an offence under section 40 (I) (k) for terminating without good cause the services of, or reducing to a lower grade or class, any workman-

- (a) the court shall, in addition to any punishment that it may impose on such employer under subsection (1), order such employer -
 - (i) where the services of the workman were terminated without good cause, to reinstate in service such workman, or
 - (ii) where the workman was reduced to a lower grade or class, to restore such workman to his proper grade or class, or
 - (iii) where such workman was otherwise punished, to grant such relief as the court may consider necessary,

and if such employer fails to comply with such order such employer shall be liable to pay a fine of fifty rupees for each day on which the failure is continued after conviction thereof; and

- (b) such employer shall be liable to pay such workman -
 - (i) if his services had been terminated without good cause, the remuneration which would have been payable to him if he had been in service on each day of the period commencing on the date on which his services had been terminated and ending on the date on which he is reinstated in service, computed at the rate of salary or wages to which he would have been entitled if his services had not been terminated, or
 - (ii) if he had been reduced to a lower grade or class, the sum which represents the difference in remuneration between the amount which ought to have been paid to him if he had not been so reduced and the amount actually paid to him.

Any sum which an employer is liable to pay under paragraph (b) of this subsection may be recovered on the order of the court by which he was convicted as if it were a fine imposed on him by the court and the amount so recovered shall be paid to the workman.

[§ 22,62 of 1957.]
[§ 11,4 of 1962.]

(4) Where an employer is convicted by a court for failure to comply with any term or condition of any settlement, award or collective agreement under this Act, or with any order of a labour tribunal or with any order under section 10(2), relating to the payment of any sum of money by such employer to a workman, or to the grant of any benefit to which that workman is entitled, the court may, in addition to any other sentence that it may impose on such employer order that such sum be paid or, if such benefit is capable of being computed in terms of money that such amount as may be determined by the court (whose determination shall be final) as the value of such benefit be paid, within the period specified in the order of the court, and if such sum or the amount so determined is not paid, it may be recovered on the order of the court as if it were a fine imposed by the court.

[§ 22,62 of 1957.]
[§ 11,4 of 1962.]

(5) Any person who in any proceedings before an arbitrator or an industrial court or a labour tribunal offers any insult or causes any interruption to such arbitrator, court or tribunal or any member thereof, may be tried and punished under subsection (1), or by such arbitrator, court or tribunal, and where such person is tried and punished by an arbitrator or an industrial court or a labour tribunal, such arbitrator, court or labour tribunal shall exercise the same powers and perform the same duties as a District Court exercises and performs in similar circumstances under section 388 of the Code of Criminal Procedure Act.

Recovery of sums of money due to workmen in certain cases.
[§ 12,4 of 1962.]

43A. (1) Where an employer has been convicted for failing to comply with any term or condition of any settlement or award under this Act, or with an order of a labour tribunal, or with an order under section 10(2) relating to the payment of any sum of money due by such employer to a workman, or the grant of any benefit to which that workman is entitled, then, if a notice in the prescribed form of the intention so to do has been served on such employer at any time before the commencement of the trial, evidence may be given of the failure on the part of such employer to pay any sum of money, or to grant such benefit, to any other workman or workmen under that award or settlement or order of the labour tribunal or order under section 10(2), and, on proof of such failure, the court may order such employer to pay such sum of money or, if such benefit is capable of being computed in terms of money, such amount as may be determined by the court (whose determination shall be final) to such other workman or workmen. Any sum of money ordered to be paid under this subsection may be recovered in the same manner as a fine.

(2) The power of the court to make an order under subsection (1) shall not be in derogation of any right of the workman or workmen to recover the sum of money, or the value of the benefit if it can be computed in terms of money, by any other proceedings.

(3) Where a workman has not been paid any sum of money, or granted any benefit, which may be due to him from any employer in accordance with any term or condition, of a settlement or award under this Act, or with an order of a labour tribunal or with an order under section 10(2), the Commissioner may, if he thinks fit so to do, by written notice require such employer to pay such sum of money or, if such benefit is capable of being computed in terms of money, such amount as may be determined by the Commissioner (whose determination shall be final) as the value of the benefit, to the Commissioner within the time specified in the notice so that the Commissioner may remit it to such workman. If the employer on being served with the notice pays the sum of money or the amount so determined directly to the workman instead of remitting it to the Commissioner as required by the notice, the employer shall be deemed not to have paid such sum of money or amount so determined to such workman.

Immediate employer being himself in the employment of another person.
[§ 12,4 of 1962.]

43B. Where the immediate employer of any workman is himself in the employment of some other person, and that workman is employed to do any work in the course of and for the purpose of the trade, business, occupation or undertaking of that other person, that other person shall, for the purposes of subsection (1) of section 40, be deemed to be the employer of that workman jointly with his immediate employer.

No prosecution without sanction of Commissioner.

44. No prosecution for an offence under this Act shall be instituted except by or with the written sanction of the Commissioner.

Proof of collective, agreements, settlements and awards.
[§ 23,62 of 1957.]

44A. (1) An extract from the *Gazette* containing a collective agreement and purporting to have been printed by the Government Printer, or copy of such agreement purporting to have been certified to be a true copy by the Commissioner, may be produced in any court in proof of such agreement.

(2) An extract from the *Gazette* containing a memorandum of settlement of an industrial dispute and purporting to have been printed by the Government Printer, or a copy of such memorandum purporting to have been certified to be a true copy by the Commissioner, may be produced in any court in proof of such memorandum.

(3) An extract from the *Gazette* containing an award made under this Act and purporting to have been printed by the Government Printer, or a copy of such award purporting to have been certified to be a true copy by the Commissioner, may be produced in any court in proof of such award.

Power of Commissioner or trade union to recover by suit money due to a workman.
[§ 13,4 of 1962.]

44B. (1) Notwithstanding anything to the contrary in any other written law -

- (a) a suit for the recovery of any sum due under this Act from any employer to any workman may be instituted in a court of competent jurisdiction in the name of the Commissioner or in the name of a trade union of which that workman is a member;
- (b) any sums due under this Act from an employer to two or more workmen may be sued for in a single suit instituted in the name of the Commissioner or in the name of a trade union of which those workmen are members;
- (c) a suit for the recovery of any sum due under this Act from any employer to any workman shall be maintainable if it is instituted within two years after that sum has become due;
- (d) in any such suit instituted in the name of the Commissioner, he may be represented by any Deputy or Assistant Commissioner or any labour officer; and
- (e) in any such suit instituted in the name of a trade union, such union may be represented by any of its officers.

(2) For the purposes of this section, "sum of money" includes, where any benefit is due under this Act from an employer and where such benefit is capable of being computed in terms of money, such amount as may be determined by the court in which the action for the recovery of the value of such benefit is brought.

Employers to make available for inspection by the Commissioner or any labour officer or any other prescribed officer registers or records.
[§ 13,4 of 1962.]

44C. Every employer shall make available for inspection by the Commissioner or any Labour Officer or any other prescribed officer any registers or records required to be maintained by him under the Wages Boards Ordinance, the Maternity Benefits Ordinance, the Shop and Office Employees (Regulation of Employment Remuneration) Act, or the Employees' Holidays Act, No.6 of 1959, and such other registers or records as may be prescribed.

Inclusion of prescribed particulars in register or record kept under any other written law.
[§ 13,4 of 1962.]

44D. (1) Where an employer is by virtue of the Wages Boards Ordinance, the Maternity Benefits Ordinance, the Shop and Office Employees (Regulation of Employment and Remuneration) Act, or the Employees' Holidays Act, No.6 of 1959 required to maintain any register or record, he shall if so required by any regulation made under this Act, include in that register or record such particulars as may be prescribed in respect of any prescribed class or description of his workmen.

(2) Where by any regulation made under this Act any prescribed particulars are required to be included in any such register or record as is referred to in subsection (1), that register or record shall, for the purposes of this Act, be deemed to be a register or record maintained under this Act.

Powers of entry inspection & c.
[§ 13,4 of 1962.]

44E. Subject to such conditions and restrictions as may be prescribed, the Commissioner or any labour officer or any other prescribed officer shall have the power -

- (a) to enter and inspect at all reasonable hours of the day or night any place in which any workmen are employed, for the purpose of examining any register or record maintained or deemed to be maintained under this Act or such other registers or records as are required under this Act to be available for inspection;
- (b) where at the time of such inspection any such register or record is not available for examination, to require the production of such register or record on such date and at such place as he may specify;

- (c) to take copies of the whole or any part of any such register or record; or
- (d) to interrogate any person whom he finds at the place where the workmen are employed and whom he has reasonable cause to believe is an employer or a workman engaged or employed in the trade, business, occupation or undertaking carried on in such place.

Expenses. 45. Any expenses incurred in carrying out the provisions of this Act, including the payment of all persons appointed for the purposes of this Act, shall be met out of moneys provided by Parliament.

Representation and appearance. [§ 24,62 of 1957.] 46. (1) Any party to any proceeding under this Act taken by or before any authorized officer, arbitrator, industrial court or labour tribunal or the Commissioner may, and shall if required so to do by such officer, arbitrator, court or tribunal, or the Commissioner, act through representatives of the party.

[§ 24,62 of 1957.] (2) In any proceeding under this Act other than proceedings before the Commissioner or an authorized officer, an attorney-at-law may appear on behalf of any party to such proceedings or the representative of such party.

[§ 24, 62 of 1957.] (3) The person or persons who shall represent a party for the purposes of this Act shall-
(a) where the party is a trade union, or consists of two or more trade unions, be an officer of such union or of each such union;

[§ 24, 62 of 1957.] (b) where the party consists partly of any trade union or unions and partly of employers or workmen who are not members of any such union, be an officer of such union or of each such union and a prescribed number of persons nominated in accordance with regulations by such employers or workmen; and

(c) where the party consists of employers or workmen, be a prescribed number of persons nominated by such employers or workmen.

[§ 24, 62 of 1957.] (4) The Commissioner or any person authorized in writing by the Commissioner shall be entitled to be present and heard in any proceedings under this Act, before an arbitrator or an industrial court or a labour tribunal.

[§ 24, 62 of 1957.] (5) Where any trade union is a party to any proceedings under this Act and acts through a representative in those proceedings, such union shall be bound by any statement or act of such representative in those proceedings.

Protection of action taken under this Act. 47. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any regulations made thereunder.

Contracting out of the rights or liabilities under this Act or awards made there under. [§ 25,62 of 1957.] 47A. Any contract or agreement whereby any right conferred on any worker by or under this Act or by any award made under this Act by an arbitrator or an industrial court or a labour tribunal is in any way affected or modified to his detriment, or whereby any liability imposed on any employer by or under this Act or by any such award is in any way removed or reduced, shall be null and void in so far as it affects or modifies any such right or removes or reduces any such liability.

Exemption from stamp duty. [§ 25,62 of 1957.] 47B. All collective agreements referred to in section 5 and all awards and documents made or issued under this Act shall be exempt from stamp duty.

Provisions relating to industrial dispute in which the employers concerned have ceased to be such employers. 47C. Notwithstanding that any person concerned as an employer in any industrial dispute has ceased to be such employer -

- (a) such dispute may be referred for settlement to an industrial court or for settlement by arbitration to an arbitrator and proceedings on such reference may be taken by such court or arbitrator,

- [§ 25,62 of 1957.]
[§ 11,27 of 1966.]
[§ 2,39 of 1968.]
- (b) if such dispute was so referred for settlement while such person was such employer, proceedings on such reference may be commenced or continued and concluded by the industrial court or arbitrator to which or whom such reference was made, and
- [§ 2,19 of 1968.]
[§ 2,39 of 1968.]
- (c) in any award made by such court or arbitrator such person may be ordered to pay to any other person concerned in such dispute as a workman employed by the first-mentioned person while he was such employer any sum whether as wages in respect of any period during which such other person was employed by the first-mentioned person or as compensation as an alternative to the reinstatement of such other person, and such order may be enforced against the first-mentioned person in like manner as if he were such employer.
- Interpretation.
48. In this Act, unless the context otherwise requires -
- “appointed date” means the 1st day of September, 1951;
- “authorized officer” means any person authorized in writing by the Commissioner to settle any industrial dispute by conciliation;
- “Commissioner” means the person for the time being holding the office of Commissioner of Labour and includes -
- (a) any person for the time being holding the office of Deputy or Assistant Commissioner of Labour;
- (b) in respect of any power, duty or function of the Commissioner under this Act, any person authorized in writing by the Commissioner to exercise such power, perform such duty or discharge such function;
- [§ 14,4 of 1962.]
- (c) in respect of the power conferred on the Commissioner by section 3(1) (b), any Labour Officer;
- “district” and “District Judge” have the same meanings as in the Judicature Act;
- [§ 26,62 of 1957.]
- “employer” means any person who employs or on whose behalf any other person employs any workman and includes a body of employers (whether such body is a firm, company, corporation or trade union) and any person who on behalf of any other person employs any workman;
- “essential industry” means any industry which is declared, by Order made by the Minister and published in the *Gazette*, to be an industry essential to the life of the community;
- “industry” includes -
- (a) trade, business, manufacture and agriculture, any undertaking or occupation by way of trade, business, manufacture or agriculture, and any branch or section of trade, business, manufacture or agriculture;
- [§ 26,62 of 1957.]
- (b) service, work or labour of any description whatsoever performed by person in the employment of a local authority, or of a corporation established by or under any written law for carrying on an undertaking whether for the purpose of trade or otherwise;
- [§ 26, 62 of 1957.]
- (c) every occupation, calling or service of workmen, and
- [§ 26, 62 of 1957.]
- (d) every undertaking of employers;
- [§ 14, 4 of 1962.]
[§ 26, 62 of 1957.]
- “industrial dispute” means any dispute or difference between an employer and a workman or between employers and workmen or between workmen and workmen

connected with the employment or non-employment, or the terms of employment, or with the conditions of labour, or the termination of the services, or the reinstatement in service, of any person, and for the purpose of this definition “workmen” includes a trade union consisting of workmen;

“lock-out” and “strike” have the same meanings as in the Trade Unions Ordinance;

[§ 14,4 of 1962.]

“retrenchment” means the termination by an employer of the services of a workman or workmen on the ground that such workman or workmen is or are in excess of the number of workmen required by such employer to carry on his industry;

“trade union” means any trade union (whether of employers or of workmen) registered under the Trade Unions Ordinance; and

[§ 26,62 of 1957.]
[§ 2,39 of 1968.]

“workman” means any person who has entered into or works under a contract with an employer in any capacity, whether the contract is expressed or implied, oral or in writing, and whether it is a contract of service or of apprenticeship, or a contract personally to execute any work or labour, and includes any person ordinarily employed under any such contract whether such person is or is not in employment at any particular time, and includes any person whose services have been terminated.

Labour officers
subject to the
general or special
directions of
the Commissioner.
[§ 15,4 of 1962.]

48A. Where a labour officer exercises any power of the Commissioner under this Act, such officer shall be subject to the general or special directions of the Commissioner.

Act not to apply
to the State or
Government or
employees of
State or
Government.

49. Nothing in this Act shall apply to or in relation to the State or the Government in its capacity as employer, or to in relation to a workman in the employment of the Crown State or the Government.

Re-employment
or retrenched
workman.
[§ 16,4 of 1962.]

50. Where after any employer has effected any retrenchment in respect of any workman the employer proposes to employ any new workman, he shall give preference to the workman retrenched by him if such workman offers himself for re-employment.

The superintendent
or manager of an
estate to be the
employer
[§ 2,39 of 1968.]

51. (1) Where the employer of any workman employed on any estate is a person who is called or known as the “superintendent” or the “manager”, it shall be sufficient, for the purposes of any application made under section 31B, or any reference under section 3 or section 4, of this Act, to designate person in such application or such reference as the “superintendent” of that estate, or the “manager” of that estate, as the case may be, without the addition of the name or any further description of such superintendent, or manager, as the case may be.

(2) No application or reference referred to in subsection (1) of this section, and no order or award made on such application or reference, shall be invalid for the reason only that the employer has been designated in accordance with the provisions of that subsection.