Uganda

Labour Disputes (Arbitration and Settlement) Act, 2006

Act 8 of 2006

Legislation as at 8 June 2006

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Labour Disputes (Arbitration and Settlement) Act, 2006
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An Act to revise the law relating to industrial relations, to repeal and replace the Trade Disputes (Arbitration and Settlement) Act, Cap 224, and to provide for related matters.

Be it enacted by Parliament as follows:

Part I – Preliminary

1. Commencement

This Act shall come into force on a date to be appointed by the Minister by statutory instrument; and different days may be appointed for the commencement of different provisions.

2. Interpretation

In this Act, unless the context otherwise requires—

"**award**" means an award made by the Industrial Court in the exercise of its arbitral jurisdiction under section 14;

"**board of inquiry**" means a board of inquiry appointed under section 25;

"**breach**" means, in relation to a worker's contract of service, to commit any act or make any omission which amounts to a breach of the contract of service under which the worker is employed;

"**collective agreement**" means a written agreement relating to terms and conditions of employment concluded between one or more labour unions and one or more employers, or between one or more labour unions and one or more employers' organisations;

"**Commissioner**" means the Commissioner for Labour;

"**contract of service**" means any contract, written or oral, where a person agrees to perform work for an employer in return for remuneration, and includes a contract of apprenticeship;

"**contract of apprenticeship**" means a contract of service where there is—

(a) an obligation on the employer to take all reasonable steps to ensure that an employee is taught, and acquires the knowledge and skills of an industry by means of practical training received in the course of the employee's employment; and

(b) a provision for formal recognition of the fact that an employee has acquired the knowledge and skills intended to be acquired when the employee does so;

"**currency point**" means the value specified in relation to a currency point in Schedule 1;

"**dispute**" means a labour dispute;

"**employee**" means any person who enters into a contract of service or an apprenticeship contract, including without limitation, a person who is employed by or for the Government of Uganda, a local government or a parastatal organisation, but does not include a member of the Uganda Peoples' Defence Forces;

"**employer**" means a person or group of persons, including a company, a corporation, a public, regional or local authority, a governing body of an unincorporated association, a partnership, parastatal organisation or any other institution or organisation and includes—

(a) the Government of Uganda and a local government, for whom or for which, an employee works or worked, or normally worked or sought to work, under a contract of service;

(b) an heir, successor, assignee and transferor of any person or group of persons for whom an employee works, worked, or normally works;

"**employers' organisation**" means a group of employers, the principal object of which is, under its constitution, the regulation of relations between employers and employees, between employers and representatives of the employees or between employers and employers for the purpose of representing employers' interests;

"**essential service**" means any of the services specified in Schedule 2;

"**Industrial Court**" means the court established by section 7;

"**industrial action**" means a strike or lockout;

"**Judge**" means a judge of the Industrial Court;

"**Labour Advisory Board**" means the Labour Advisory Board established by the Employment Act 2005;

"**labour dispute**" means any dispute or difference between an employer or employers and an employee or employees, or a dispute between employees; or between labour unions, connected with employment or non-employment, terms of employment, the conditions of labour of any person or of the economic and social interests of a worker or workers;

"**Labour Officer**" means the Commissioner for Labour, and a District Labour Officer, as the case may be and includes an Assistant Labour Officer;

"**labour union**" means an organisation created by employees, the principal objects of which are, under its constitution, the regulation of the relations between employees and employers or between employees and employees, for the purpose of representing the rights and interests of employees;

"**lock-out**" means the closing of a place of employment, the suspension of work, or the refusal by an employer to continue to employ or to re-engage any person employed by him or her in consequence of a dispute, done with a view to compelling that person, or to aid another employer in compelling any person employed by that other employer to accept certain terms or conditions of employment which affect the employment;

"**Minister**" means the Minister responsible for labour matters;

"**national disaster**" means an occurrence inflicting widespread destruction and distress on the life, personal safety or health, industry, property, livelihood or other human interest of the whole or part of the population;

"**procedural agreement**" means a collective agreement which sets out a dispute resolution procedure;

"**recognition agreement**" means an agreement by an employer to recognise a labour union for the purposes of collective bargaining or for any other purpose;

"**Registrar of Labour Unions**" means the Registrar of Labour Unions appointed under the Labour Unions Act, 2006;

"**strike**" means the cessation of work by a body of persons employed in any trade or industry, acting in combination or concerted refusal, or a refusal under a common understanding of any number of

persons who are or have been employed, to continue to work or to accept employment and includes any interruption or slowing down of work by a number of persons employed in any trade or industry or undertaking, including any action commonly known as a "sit-down strike", or a "go slow".

Part II – Dispute resolution and settlement

3. Labour disputes to be referred to Labour Officer

(1) Subject to subsection (2), a labour dispute, whether existing or apprehended, may be reported, in writing, to a Labour Officer, by a party to the dispute in such form and containing such particulars as may be prescribed by regulations made under this Act.

(2) A labour dispute, whether existing or apprehended, may only be reported to the Commissioner if it is, or is likely to become a national disaster.

(3) The Commissioner may, on his or her own motion, take responsibility for any labour dispute reported to a Labour Officer where the Commissioner has reasonable grounds to believe that the labour dispute is, or is likely to become a national disaster.

(4) A person making a report of a labour dispute under subsection (1) shall send a copy of the report immediately to the other party to the dispute.

4. Labour Officer to react to report of labour dispute within two weeks

A Labour Officer shall, within two weeks after receipt of the report made under section 3 (1), deal with the report in any one or more of the following ways—

(a) meet with the parties and endeavour to conciliate and resolve the dispute;

(b) appoint a conciliator to conciliate the parties in dispute and inform the parties, in writing, of the appointment;

(c) refer the dispute back to the parties with comments and proposals to the parties of the terms upon which a settlement of the labour dispute may be negotiated;

(d) reject the report and inform the parties accordingly, stating the reasons for rejecting the report, having regard to—

(i) the insufficiency of the particulars set out in the report, or the nature of the report;

(ii) the insufficiency of the endeavours made by the parties to achieve a settlement of the dispute; or

(iii) any other matter which the Labour Officer considers to be relevant in the circumstances;

(e) inform the parties to the dispute that the report comprises matters which cannot be dealt with under this Act.

5. When Labour Officer may refer dispute to Industrial Court

(1) If, four weeks after receipt of a labour dispute—

(a) the dispute has not been resolved in the manner set out in section 4 (a) or (c); or

(b) a conciliator appointed under section 4(b) considers that there is no likelihood of reaching any agreement,

the Labour Officer shall, at the request of any party to the dispute, and subject to section 6, refer the dispute to the Industrial Court.

(2) Notwithstanding subsection (1), the period of conciliation may be extended by a period of two weeks, with the consent of the parties.

(3) Where a labour dispute reported to a Labour Officer is not referred to the Industrial Court within eight weeks from the time the report is made, any of the parties or both the parties to the dispute may refer the dispute to the Industrial Court.

6. Reference to conciliation and arbitration agreement

Where there are any arrangements for settlement by conciliation or arbitration in a trade or industry, between a labour union and one or more employers or between one or more labour unions and one or more employers' organisations, the Labour Officer shall not refer the matter to the Industrial Court but shall ensure that the parties follow the procedures for settling the dispute laid out in the conciliation or arbitration agreement, which apply to the dispute.

Industrial Court

7. Establishment of the Industrial Court

(1) There is established an Industrial Court.

(2) The Industrial Court may circuit as frequently as circumstances may make it necessary.

8. Functions of the Industrial Court

(1) The Industrial Court shall—

(a) arbitrate on labour disputes referred to it under this Act; and

(b) adjudicate upon questions of law and fact arising from references to the Industrial Court by any other law.

(2) The Industrial Court shall dispose of the labour disputes referred to it without undue delay.

9. Arbitration and Conciliation Act, not to apply

The Arbitration and Conciliation Act shall not apply to any proceedings of the Industrial Court under this Act, or to any award made by the Industrial Court.

10. Composition, appointment and tenure of members of the Industrial Court

(1) The Industrial Court shall consist of—

(a) a Chief Judge;

(b) a Judge;

(c) an independent member;

(d) a representative of employers; and

(e) a representative of employees.

(2) The Chief Judge and the Judge shall be appointed by the President on the recommendation of the Judicial Service Commission, and shall have qualifications similar to those of a Judge of the High Court.

(3) The Chief Judge and the Judge shall hold office for a term of five years.

(4) The independent member shall be appointed by the Minister from a panel of five eminent Ugandans not representatives of employers or employees, and shall hold office for three years.

(5) The representative of employers shall be appointed by the Minister from a panel of five persons, nominated by the federation of employers, to represent employers in respect of any one particular dispute referred to the Industrial Court.

(6) The representative of employees shall be appointed by the Minister from a panel of five persons, nominated by the federations of labour unions, to represent employees, in respect of any one particular dispute referred to the Industrial Court.

11. Minister may consider nominations by employees and employers

In appointing a member of the industrial court under section 10(5) and (6), the Minister may take into consideration any nomination from a panel made to him or her by the employers or employees concerned with the dispute before the Industrial Court, as the case may be, but the Minister is not bound by the nomination.

12. Registrar of the Industrial Court and support staff

(1) The Industrial Court shall have a Registrar and support staff who shall be appointed by the Public Service Commission, as may be necessary.

(2) The Registrar shall be a public officer with relevant knowledge in industrial relations and shall be the administrative head of the Industrial Court, under the supervision of the Chief Judge.

Decisions and awards of Industrial Court

13. Decisions of the Industrial Court

Where the Industrial Court is unable to reach a common decision, the matter shall be decided by the Chief Judge.

14. Awards of the Industrial Court

(1) An award or decision of the Industrial Court shall be announced by the Chief Judge in the presence of the parties to the dispute, or their representatives.

(2) An award of the Industrial Court shall take effect from such date as may be determined by the Court but in any case, not a date earlier than the date the dispute arose and where the Industrial Court does not fix a date, the effective date shall be the date on which the award is announced.

(3) The Industrial Court, shall, when making an award, have the power to determine the period during which the award shall remain in force and binding on the parties concerned.

15. Awards to be submitted to Minister

The Registrar of the Industrial Court shall submit to the Minister, a copy of every award of the Industrial Court.

16. Enforcement of awards or decisions of the Industrial Court

(1) An award or a decision of the Industrial Court shall be enforceable in the same way as a decision in a civil matter in the High Court.

(2) A party to an award or decision of the Industrial Court who fails or refuses to abide by the terms of the award or decision of the Industrial Court shall be in contempt of Court.

17. Interpretation and review of awards

(1) Where any question arises as to the interpretation of any award of the Industrial Court within twenty-one days from the effective date of the award or, where new and relevant facts concerning the dispute materialise, a party to the award may apply to the Industrial Court to review its decision on a question of interpretation or in the light of the new facts.

(2) The Industrial Court may decide the matter after hearing the parties, or without a hearing, if the consent of the parties is obtained.

(3) A decision of the Industrial Court shall be notified to the parties and shall be deemed to form part of the original award and shall have the same effect in all respects, as the original award.

18. Industrial Court not to be bound by rules of evidence

(1) For the purposes of determining any matter before it, the Industrial Court shall not be bound by the rules of evidence in any civil proceedings and may, on its own motion or on the application of any of the parties to the dispute, require any person—

(a) to provide in writing, or in any other way, evidence in relation to any matter as the Court may require;

(b) where necessary, to attend before the Court and give evidence;

(c) to produce any document to enable the Court to obtain any information which, in the circumstances, may be considered necessary.

(2) Notwithstanding subsection (1), a witness may object to answering any question or to producing any document on the ground that it incriminates him or her.

(3) A witness who refuses to answer a question or to produce a document is not liable for refusing to do so.

19. Restriction on publication of evidence

(1) Where an employers' organisation, a firm, a company or a business carried out by an individual makes a disclosure before the Industrial Court or a board of inquiry and requests that the disclosure should not be published on the grounds that it is confidential, the disclosure shall not form part of any award, finding, determination, report or other statement made by the Industrial Court or board of inquiry.

(2) A member of the Industrial Court, board of inquiry or person present at the proceedings shall not disclose any information requested by the employers' or employees' organisations or firm, company or individual business not to be disclosed without their consent.

20. Legal representation in the Industrial Court

In any proceedings before the Industrial Court a party may appear by himself or herself or by an agent, including a labour union or an employer's organisation, or may be represented by an advocate.

21. Sittings of the Industrial Court may be public or in private

(1) It is in the discretion of the Industrial Court to admit or exclude the public or the press from any of its sittings.

(2) Where the press is present at a sitting of the Industrial Court, the press may not publish any comment or report on the proceedings, where the comment or report is likely to prejudice the ability of a party to obtain a fair hearing.

(3) The Industrial Court may make any orders to ensure that the parties to a dispute obtain a fair hearing and may, where necessary, order that comments in respect of any proceedings or the evidence adduced in the Industrial Court are not to be published until an award has been announced.

(4) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding five currency points.

22. Appeals from the Industrial Court

An appeal shall lie from a decision of the Industrial Court to the Court of Appeal only on a point of law, or to determine whether the Industrial Court had jurisdiction over the matter.

23. Party to a recognition or procedural agreement may initiate discussion

(1) A party to a recognition agreement or a procedural agreement who is of the opinion that a matter likely to lead to a labour dispute has arisen, may give two weeks' notice to the other party, to negotiate under the agreement with a view to reaching a settlement on the matter.

(2) Where negotiations are not carried out under subsection (1), any of the parties may report the matter to a Labour Officer who shall investigate the matter with a view to finding out the cause of the delay in negotiating the matter, within two weeks of the receipt of the report.

(3) On the completion of the investigations under subsection (2), the Labour Officer may—

(a) order the parties to start negotiations within two weeks from the time his or her investigations are concluded; or

(b) appoint a conciliator, where the Labour Officer is of the opinion that negotiations are not likely to bring about a quick settlement of the matter in disagreement.

(4) Where an agreement is not reached under subsection (3), section 5 shall apply to the settlement of the dispute and, for the purposes of this Act, the dispute shall be treated as a labour dispute.

24. Powers of a Labour Officer

(1) A Labour Officer shall, in exercising his or her powers under this Act, endeavour to secure the settlement of trade disputes, actual or imminent, by the use of voluntary procedures, conciliation and mediation.

(2) A Labour Officer may act as conciliator or mediator in a labour dispute or may nominate any other person to act in that capacity.

Boards of inquiry

25. Appointment of and reference to board of inquiry

(1) Subject to this Act, the Minister may, whenever he or she considers it expedient, appoint a board of inquiry to inquire into and report to him or her any matter—

(a) affecting the relations between an employer and an employee, as he or she may direct;

(b) affecting the working conditions of an employee or group of employees; or

(c) relating to the terms of employment of an employee.

(2) A board of inquiry appointed under this section may comprise—

(a) a single person; or

(b) a number of persons, including a chairperson, as the Minister may appoint.

(3) Where the Minister appoints persons under subsection (2)(b), the persons appointed shall be equally representative of employers and employees and shall not in any way be employed or concerned with the particular trade or industry into which that board is to inquire.

(4) For the purposes of its functions, a board of inquiry, shall have all the powers relating to evidence as are conferred on the Industrial Court by section 18.

26. Report of board of inquiry

(1) A board of inquiry shall at the end of its inquiry, submit to the Minister, a report of its findings and recommendations.

(2) Upon receipt of the report of a board of inquiry under subsection (1), the Minister shall—

(a) cause to be published in such a manner as he or she may deem expedient, the whole or any part of the report; and

(b) where the report relates to any existing labour dispute, make known to all or any of the parties concerned as he or she considers appropriate, the findings and recommendations contained in the report.

27. Parties' refusal to comply with recommendations of the report

Where, after having made known to the parties concerned the findings and recommendations contained in the report of a board of inquiry, the parties or any of them refuse to settle the dispute as recommended by the board within the time specified by the board, the Minister may refer the dispute to the Industrial Court

Industrial action

28. Unlawful industrial action

(1) A Labour Officer may do any of the things in subsection (2), where it appears that—

(a) there is a labour dispute (whether the dispute is reported to him or her or not) which is likely to lead to an unlawful strike, lock-out or other industrial action;

(b) the matter to which the labour dispute relates is settled by a collective agreement;

(c) a substantial proportion of the employers and employees in the trade or section of industry covered by the collective agreement, are directly or through their organisations, parties to that collective agreement; and

(d) the collective agreement has not expired.

(2) The Labour Officer may—

(a) request the parties to the dispute to comply with the collective agreement; or

(b) order the parties to comply with the collective agreement.

(3) Where the parties do not comply with the request or order of a Labour Officer under subsection (2), the Minister or the Labour Officer shall refer the dispute to the Industrial Court.

(4) Where the Minister or the Labour Officer refers a dispute to the Industrial Court under this Act, the Minister or the Labour Officer may declare the counselling or procuring of any strike or other industrial action, or the introduction of a lock-out, in relation to a matter forming the dispute referred to the Industrial Court to be unlawful until the earlier of—

(a) the date, not later than three weeks from the date on which the dispute was referred to the Industrial Court; or

(b) the date on which the Industrial Court makes its decision or award.

(5) Where a Labour Officer seeks to settle a labour dispute by conciliation, he or she may declare the counselling or procuring of a strike or other industrial action or the introduction of a lock-out, in relation to matters forming the subject matter of the conciliation efforts to be unlawful until the earlier of the date when—

(a) the matter is settled by conciliation or by a decision by the Industrial Court; or

(b) a date, not later than three weeks from the date on which the dispute was referred to conciliation.

(6) A person who wilfully induces a strike or other industrial action, or who undertakes a lock-out in circumstances where that action has been declared unlawful by a Labour Officer under this section, commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or imprisonment not exceeding one year, or both.

29. Unlawful organisation of industrial action

(1) Where the Industrial Court makes an award and that award has come into force, it shall be an offence for any person, during the existence of the award, to counsel or procure a strike or other industrial action or to introduce a lock-out in circumstances where the objective or purpose of the strike, other industrial action or lock-out is to upset or vary that award.

(2) Where a Labour Officer declares any industrial action unlawful under this Act, it shall be an offence for any person, during the period in which the industrial action has been declared unlawful, to counsel or procure a strike or other industrial action or to introduce a lock-out.

(3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or imprisonment not exceeding one year, or both.

30. Employee's right to participate in industrial action

(1) Subject only to any limitation provided in this Act or any other law, it shall be lawful for an employee—

(a) to participate in an industrial action; or

(b) to act in contemplation or furtherance of an industrial action in connection with a labour dispute.

(2) Civil action shall not be taken against an employee who participates or acts in contemplation or furtherance of an industrial action in connection with a labour dispute, under this section.

31. Picketing

For the purpose of peacefully persuading any person to work or to abstain from working or for the purpose of peacefully obtaining or communicating information, it shall be lawful, in contemplation or furtherance of a labour dispute for—

(a) an employee to attend at or near his or her workplace or at or near the business premises of his or her employer or of any associated employer from which his or her work is administered; or

(b) an official of a labour union representing that employee to attend at or near their workplaces or at or near the business premises of their employers or associated employers from which such employees' work is administered.

32. Acts of intimidation or annoyance

(1) It shall be an offence for any person to compel or to seek to compel another person to do or to refrain from doing any act which that other person has a legal right to do or to refrain from doing by-

(a) the use of violence or intimidation against that other person or his or her family; or

(b) the use of violence or threats of violence against the property of that person or his or her family.

(2) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or imprisonment not exceeding one year, or both.

Part III – Essential services

33. Essential services

(1) An employee in an essential service specified in Schedule 2 shall not wilfully breach or terminate his or her contract of service, other than in the circumstances specified in section 34, or do so where he or she knows or has reasonable cause to believe that the probable consequences of his or her actions, either alone or in combination with others, is to deprive the public or any section of the public of the essential service or substantially to diminish the enjoyment of that essential service by the public or by any section of the public.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or imprisonment not exceeding one year, or both.

(3) Subject to section 34, a person shall not cause or procure or counsel any employee to breach or terminate his or her contract of service and do so where he or she knows or has reasonable cause to believe that the probable consequences of his or her breach or termination, alone or with others, is to deprive the public or any section of the public of an essential service or substantially to diminish the enjoyment of an essential service by the public or by any section of the public.

(4) A person who contravenes subsection (3) commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or imprisonment not exceeding one year, or both.

34. Lawful industrial action in essential services

(1) Nothing in this Act shall prohibit an individual employee from giving notice of termination of employment at any time under the Employment Act, 2006.

(2) Where a collective withdrawal of labour from an essential service is contemplated, notice in writing of the intended participation in the withdrawal shall be given to an employer, not earlier than fourteen days before the intended collective withdrawal of labour, and not later than twenty-two days from the intended collective withdrawal of labour.

(3) Notice in subsection (2) may be given individually by the employees in the essential service or collectively where they are represented by a labour union of which the employees are members.

(4) Where notice of the intended participation in collective withdrawal given in subsection (2) is not subsequently withdrawn, an employee by whom or on whose behalf notice is given and who is represented by a labour union and a person who causes or procures or counsels that employee to breach his or her contract of service shall not be guilty of any offence where the employee breaches his or her contract of service after the expiry of fourteen days but before the expiry of twenty two days following the delivery of the notice.

(5) A notice of intended participation in a collective withdrawal of labour shall not be valid under this section where, before the expiry of the fourteen-day period specified in subsection (2), the Minister refers the dispute to the Industrial Court.

35. Information about essential services

(1) Every employer in an essential service shall—

(a) cause to be posted, upon the principal premises used for the purpose of discharging that essential service, a printed copy of the provisions of sections 33 and 34 and Schedule 2 in a conspicuous place where the copy may conveniently be read by the employees; and

(b) as often as the copy becomes defaced, obliterated, destroyed or removed, cause it to be replaced as soon as possible.

(2) An employer who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points and to a further fine not exceeding half a currency point for every day or part of a day during which the offence has continued.

(3) A person who wilfully, without reasonable cause or excuse, defaces, obliterates, destroys, removes or covers up any printed copy posted up in accordance with subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or imprisonment not exceeding one year or both.

36. Designation of essential services

(1) The Minister may, in consultation with the Labour Advisory Board, in addition to the services prescribed in Schedule 2, by statutory instrument made under section 42, designate a service as an essential service if it is of such a nature that its interruption endangers the life, personal safety or health of the whole or part of the population.

(2) In the case of any doubt arising, the Industrial Court, on reference by any party to a labour dispute or on reference by the Minister, shall decide whether any service is within the classification of essential services specified in Schedule 2 and the decision shall be conclusive.

(3) Where a lock-out or strike occurs and the Minister is satisfied that the parties to the lock-out or strike acted in the reasonable belief that the affected service is not an essential service but the Industrial Court declares that service to be an essential service—

(4) the Minister shall cause a certificate to be served on the parties to the lock-out or strike, stating that the service is an essential service; and

(5) the lock-out or strike shall be deemed to be a labour dispute to which sections 33 and 34 apply from the date on which the certificate is served on the parties.

37. Prosecutions

A prosecution for any offence under this Act shall not be instituted except by, or with the written consent of the Director of Public Prosecutions.

Part IV – Collective agreements

38. Collective agreement to be registered

(1) A copy of every collective agreement and any amendment or variation made to the agreement shall be registered with a Labour Officer.

(2) Notwithstanding subsection (1), a collective agreement that is not registered remains enforceable between the parties to the agreement.

(3) A Labour Officer may advise the parties on the drawing of the agreement, but the parties shall not be bound by the advice.

(4) The terms of a collective agreement shall be in writing, and every collective agreement shall contain a reference to the manner and date when it may be reviewed.

(5) Where a collective agreement, in existence at the commencement of this Act, does not contain a reference to the date on which it is to be reviewed or where the date for its review has passed without revision being made or further agreement being reached, the agreement shall, unless it is brought into compliance with subsection (4), remain valid only for a period not exceeding two years after the commencement of this Act.

(6) It is the duty of every party to a collective agreement to ensure that a signed copy of the agreement is lodged with the Registrar of Labour Unions within twenty-eight days from the date the agreement is made.

(7) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or imprisonment not exceeding one year, or both.

39. Terms of collective agreement to be part of contract of employment

The terms of a collective agreement, registered in accordance with section 38, shall, so far as is appropriate, be incorporated in the contracts of employment of the employees who are subject to its provisions, and shall give rise to legally enforceable rights.

Part V – Miscellaneous

40. Rules of procedure for Industrial Court

(1) The Minister may, in consultation with the Chief Justice, make rules prescribing the form and the manner in which labour disputes may be referred to the Industrial Court, the procedure for the hearing of labour disputes and generally for the conduct of the business of the Court.

(2) Where any question arises in the course of the hearing of a labour dispute in respect of which rules have not been made under this section, the Industrial Court shall regulate its own procedure.

41. Remuneration, allowances and other expenses

(1) The Minister shall, with the approval of the Minister responsible for finance, determine the remuneration, including allowances payable to the members and staff of the Industrial Court and any board of inquiry appointed under this Act.

(2) Any expenses incurred in carrying into effect the provisions of this Act shall be paid out of the consolidated fund.

42. Regulations

(1) The Minister may, in consultation with the Labour Advisory Board and with the approval of Parliament, by statutory instrument, make regulations for the better carrying out of the purposes of this Act.

(2) Regulations made under this section may prescribe, in respect of a contravention of the regulations, that the offender is liable, on conviction, to a fine not exceeding twenty-four currency points, or to imprisonment for a term not exceeding one year, or both.

43. Minister's power to amend Schedules

(1) The Minister may, with the approval of Cabinet, by statutory instrument, amend Schedule 1.

(2) The Minister may, with the approval of the Labour Advisory Board, by statutory instrument, amend Schedule 2.

44. Repeal of Cap 224 and savings

(1) The Trade Disputes (Arbitration and Settlement) Act is repealed.

(2) A statutory instrument made under the Trade Disputes (Arbitration and Settlement) Act repealed by subsection (1), and which is in force immediately before the commencement of this Act, shall, unless a contrary intention appears, remain in force, so far as it is not inconsistent with this Act, until it is revoked by regulations made under this Act and until that revocation, shall be deemed to have been made under this Act.

(3) Without prejudice to the general effect of the Interpretation Act—

(a) any agreement, decision or award made under the repealed Act, and in force immediately before the commencement of this Act shall continue to have effect as if made under this Act;

(b) any directions, appointments and other acts lawfully done under the repealed Act and in force immediately before the commencement of this Act shall, continue to have effect as if made under this Act;

(c) any proceedings pending or commenced before the Industrial Court immediately before the commencement of this Act shall not be affected by the commencement of this Act.

Schedule 1 (Sections 2, 43(1))

Currency point

A currency point is equivalent to twenty thousand shillings.

Schedule 2 (Sections 33, 36, 43(2))

Essential services

1. Water services
2. Electricity services
3. Health services
4. Sanitary services
5. Hospital services
6. Fire services
7. Prisons services
8. Air traffic control services
9. Civil aviation services
10. Telecommunication services
11. Ambulance services
12. Transport services necessary for the operation of any of the services specified in this Schedule
13. Central and local government Police services