

## CHAPTER 223.

## TRADE DISPUTES (ARBITRATION AND INQUIRY).

## ARRANGEMENT OF SECTIONS.

## SECTION.

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## CHAPTER 223.

## TRADE DISPUTES (ARBITRATION AND INQUIRY).

14 of 1939.

**An Ordinance to provide for the establishment of an Arbitration Tribunal and a Board of Inquiry in connection with trade disputes, and to make provision for the settlement of such disputes, and for the purpose of inquiring into economic and industrial conditions in the Colony and Protectorate.**

[24TH JUNE, 1939.]

Short title.

1. This Ordinance may be cited as the Trade Disputes (Arbitration and Inquiry) Ordinance, and shall apply to the Colony and Protectorate.

Definitions.

2. (1) For the purposes of this Ordinance—

The expression "trade dispute" means any dispute or difference between employers and workmen, or between

workmen and workmen, connected with the employment or non-employment, or the terms of the employment, or with the conditions of labour, of any person.

The expression "workman" means any person who has entered into or works under a contract with an employer whether the contract be by way of manual labour, clerical work, or otherwise, be expressed or implied, oral or in writing, and whether it be a contract of service or of apprenticeship or a contract personally to execute any work or labour.

(2) This Ordinance shall not apply to persons in the naval, military, or air services of the Crown, or to the Police Force, but otherwise shall apply to workmen employed by or under the Crown in the same manner as if they were employed by or under a private person.

Application of Ordinance to the Crown.

3. (1) Any trade dispute as defined by this Ordinance whether existing or apprehended, may be reported to the Governor by or on behalf of either of the parties to the dispute, and the Governor shall thereupon take the matter into his consideration and take such steps as seem to him expedient for promoting a settlement thereof.

Trade disputes may be reported to the Governor.

(2) Where a trade dispute exists or is apprehended, the Governor may, subject as hereinafter provided, if he thinks fit and if both parties consent, refer the matter for settlement to an Arbitration Tribunal constituted of either—

Reference of disputes to arbitration tribunal and constitution of the tribunal.

(a) a sole arbitrator appointed by the Governor; or

(b) an arbitrator appointed by the Governor, assisted by one or more assessors nominated by or on behalf of the employers concerned and an equal number of assessors nominated by or on behalf of the workmen concerned, all of whom shall be appointed by the Governor:

Provided that the award shall be made and issued by the arbitrator only; or

(c) one or more arbitrators nominated by or on behalf of the employers concerned and an equal number of arbitrators nominated by or on behalf of the workmen concerned, and an independent chairman, all of whom shall be appointed by the Governor:

Provided that where all the members of the Tribunal are unable to agree as to their award, the matter shall be decided by the chairman as sole arbitrator.

Means of  
conciliation  
before  
reference to  
Tribunal.

(3) If there are existing in any trade or industry any arrangements for settlement by conciliation or arbitration of disputes in such trade or industry, or any branch thereof, made in pursuance of an agreement between organisations of employers and organisations of workmen representative respectively of substantial proportions of the employers and workmen engaged in that trade or industry, the Governor shall not, unless with the consent of both parties to the dispute, and unless and until there has been a failure to obtain a settlement by means of those arrangements, refer the matter for settlement in accordance with the foregoing provisions of this section.

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(4) The Arbitration Ordinance shall not apply to any proceedings of an Arbitration Tribunal under this Ordinance or to any award issued by it.

Vacancies on  
the Tribunal.

4. (1) Whenever an Arbitration Tribunal consists of more than one arbitrator and any vacancy occurs in their number the Tribunal may, with the consent of the parties, act notwithstanding such vacancy.

(2) Whenever the Tribunal consists of an arbitrator, assisted by assessors and any vacancy occurs in the number of assessors the Tribunal may in the discretion of the arbitrator either act notwithstanding such vacancy or consent to another assessor being nominated and appointed to fill such vacancy.

(3) No act, proceeding, or determination of the Tribunal shall be called in question or invalidated by reason of any such vacancy, provided that in the circumstances referred to in sub-section (1) hereof the required consent has been first obtained.

Award of  
Tribunal not  
to conflict  
with any  
law.

5. Where any trade dispute referred to an Arbitration Tribunal 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 Ordinance other than this Ordinance, the Tribunal shall not make any award which is inconsistent with the provisions of that Ordinance.

Publication  
of the award.

6. Any award of an Arbitration Tribunal shall be submitted to the Governor who shall as soon as possible thereafter cause the same to be published in such manner as he thinks fit.

Interpreta-  
tion of the  
award.

7. If any question arises as to the interpretation of any award of an Arbitration Tribunal, the Governor or any party to the award may apply to the Tribunal for a decision on

such question, and the Tribunal shall decide the matter after hearing the parties, or without such hearing provided the consent of the parties has been first obtained. The decision of the Tribunal shall be notified to the parties and shall be deemed to form part of and shall have the same effect in all respects as the original award.

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

Inquiry into trade disputes and industrial conditions.  
Appointment of a Board of Inquiry.

(2) The Governor may also refer any matter connected with the economic or industrial conditions in the Colony or in the Protectorate to the Board for inquiry and report.

(3) The Board shall consist of a chairman and such other persons as the Governor thinks fit to appoint, or may, if the Governor thinks fit, consist of one person appointed by the Governor.

(4) The Board may act notwithstanding any vacancy in their number.

9. (1) A Board of Inquiry may, if it thinks fit, make interim reports.

Reports of the Board and publication.

(2) Any report of the Board, and any minority report, shall be submitted to the Governor.

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

Provided that there shall not be included in any report or publication made or authorised by the Board or the Governor any information obtained by the Board in the course of the inquiry as to any trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through evidence given at the inquiry, except with the consent of the secretary of the trade union or of the person, firm, or company in question,

nor shall any individual member of the Board or any person concerned in the inquiry, without such consent, disclose any such information.

Evidence.

**10.** For the purpose of dealing with any matter referred to it, an Arbitration Tribunal or a Board of Inquiry, as the case may be, shall have full power by order to require any person to furnish, in writing or otherwise, such particulars in relation to such matter as the Tribunal or the Board may require, and where necessary to attend before the Tribunal or the Board and give evidence on oath or otherwise, and to require the production of documents, so as to elicit all such information as in the circumstances may be considered necessary, without being bound by the rules of evidence in civil or criminal proceedings:

Provided always that, if any witness objects to answer any question or to produce any document on the ground that it will tend to incriminate him or on any other lawful ground, he shall not be required to answer the question or to produce such document nor shall he be liable to any penalties for refusing to do so.

Appearance of counsel or solicitor.

**11.** It shall be in the discretion of an Arbitration Tribunal or a Board of Inquiry, as the case may be, to permit any interested person to appear by counsel or solicitor on any proceedings or inquiry under this Ordinance before such Tribunal or Board.

Sittings may be public or private.

**12.** (1) It shall be in the discretion of an Arbitration Tribunal or a Board of Inquiry, as the case may be, to admit or exclude the public or the press from any of its sittings.

Publication of proceedings.

(2) Whenever the press shall have been allowed to be present at a sitting of the Tribunal or of the Board, and not otherwise, a fair and accurate report or summary of the proceedings including the evidence adduced at that sitting may be published:

Provided however that, until the award or the result of the inquiry has been published by order of the Governor, no comment shall be published in respect of the proceedings or the evidence. Any person guilty of a contravention of this provision shall be liable on summary conviction to a penalty not exceeding one hundred pounds.

13. The Governor in Council may make rules regulating the procedure to be followed by an Arbitration Tribunal or a Board of Inquiry, and whenever any question shall arise in the course of an arbitration or an inquiry in respect of which rules have not been made the Tribunal or the Board, as the case may be, shall regulate its own procedure. Rules of procedure.

14. (1) It shall be lawful for the Governor to pay any arbitrator or assessor or to any member of a Board of Inquiry appointed under this Ordinance such remuneration as the Governor shall think fit. Expenses.

(2) The Governor may appoint at such remuneration and on such terms and conditions as he may determine such officers and other servants as may be necessary for carrying out the purposes of this Ordinance.

(3) Any expenses incurred in carrying this Ordinance into operation and approved of by the Governor shall be paid out of the general revenues of the Colony on the warrant of the Governor.

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