

Seychelles

Industrial Relations Act

Act 7 of 1993

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Seychelles

Industrial Relations Act

Act 7 of 1993

Commenced on 1 January 1994

[This is the version of this document at 30 June 2012 and includes any amendments published up to 30 June 2014.]

[Act 7 of 1993; Act [17 of 1994](#)]

Part I – Preliminary

1. Short title

This Act may be cited as the Industrial Relations Act.

2. Interpretation

In this Act—

"**Board**" means a Dispute Settlement Board in terms of [section 48](#);

"**check-off agreement**" means an agreement between an employer and a trade union for dues to be deducted from the wages of an employee by the employer and paid to the trade union;

"**constitution**", in relation to a trade union, includes the rules of the trade union;

"**federation**" means a federation of trade unions;

"**industrial dispute**" means a dispute between a trade union of employees and an employer or a trade union of employers which relates wholly or mainly to—

- (a) the allocation of work between employees or group of employees;
- (b) a procedure agreement;
- (c) the conditions of employment of a group of employees who are members of the trade union and are employed by the employer;
- (d) the collective, simultaneous or otherwise connected termination or suspension of employment of a group of employees;

"**lock-out**" means an action taken by an employer whether or not in contemplation or furtherance of an industrial dispute, and whether or not the employer is a party to the dispute, which consists in—

- (a) the exclusion of a group of employees from a place of employment;
- (b) the suspension of work in a place of employment; or
- (c) the collective, simultaneous or otherwise connected termination or suspension of employment of a group of employees;

"**officer**", in relation to a trade union, means an office bearer of the trade union or a person, whether elected or not, holding any office in the union;

"**procedure agreement**" means an agreement which relates to—

- (a) machinery for consultation with regard to, or for the settlement of, terms and conditions of employment;
- (b) representational status;

- (c) facilities to officers;
- (d) procedures relating to disciplinary matters;
- (e) procedures relating to grievances of employees;

"**public officers**" means a person holding an office of emolument in a civil capacity in the service of the Government;

"**representational status**" means the authority of a trade union of employees to represent a member of the trade union in any dispute with the employer in which the member is relying on the member's legal right;

"**Registrar**" means the Registrar of trade unions appointed under [section 5](#);

"**registered**" means registered under this Act by the Registrar;

"**special fund**" means a fund of a trade union, other than a political fund, to which the members of the trade union are free not to contribute;

"**strike**" means an action taken by a group of employees, whether or not in contemplation or furtherance of an industrial dispute and whether or not they are parties to the dispute, which consists in—

- (a) a concerted stoppage of work; or
- (b) a concerted course of conduct, including going slow or working to rule, which is carried out—
 - (i) with the intention of preventing, reducing or otherwise interfering with the production or distribution of goods or the provision of services; and
 - (ii) in the case of some or all the employees involved, in breach of their obligations to their employer or in disregard of the normal arrangement between them and their employer;

"**trade**" includes any occupation, calling or business;

"**trade union**" means an association of persons having as one of its objects the regulation of industrial relations between employees and employers and includes a federation;

"**Tribunal**" means the Industrial Relations Tribunal in terms of [section 51](#).

3. Application

- (1) This Act binds the Republic.
- (2) This Act does not apply to—
 - (a) a member of a disciplinary force;
 - (b) a person in the service of the Republic who is not a public officer;
 - (c) a person in the judicial service.

- (3) For the purposes of subsection (2),—

"disciplinary force" means—

- (a) a naval, military or air force;
- (b) the police force of Seychelles;
- (c) the prison service of Seychelles;
- (d) any other similar force established by law;

"a person in the judicial service" means a Judge or Magistrate or a Master or the Registrar of the Supreme Court.

4. Acts in furtherance of industrial dispute

- (1) Subject to this Act, an act done by a person in contemplation or furtherance of an industrial dispute shall not constitute an offence or give rise to an action in damages or otherwise be unlawful as to render an agreement voidable on the ground only—
 - (a) that it induces or will induce another person to break an agreement to which that other person is a party or prevents another person from performing a contract;
 - (b) that it consists in the person threatening that a contract, whether the person is a party to it or not, will be broken or will be prevented from being performed, or that the person will induce another person to break an agreement to which that other person is a party or will prevent another person from performing a contract; or
 - (c) that it is an interference with trade, business or employment of another person, or with the right of another person to dispose of that other person's capital or labour as that other person wishes.
- (2) Subject to this Act, an agreement or combination by 2 or more persons to do or procure to be done an act referred to in subsection (1) shall not constitute an offence or give rise to an action in damages or otherwise be unlawful as to render the agreement voidable.

Part II – Registration of trade unions

5. Registrar of Trade Unions

- (1) There shall be a Registrar of Trade Unions who shall be appointed by the President.
- (2) The functions of the Registrar under this Act may be performed by an Assistant Registrar.
- (3) The Registrar may appear and be heard on an appeal from a decision made by the Registrar under this Act.

6. Registration of trade unions

- (1) A trade union shall, not later than 2 months after the date of its formation, or, in the case of a trade union which existed prior to the coming into force of this Act, after the coming into force of this Act, apply to the Registrar for registration.
- (2) A trade union shall not claim or receive any admission fee, dues or contribution unless the trade union has been registered under this Act or, in the case of a trade union which existed prior to the coming into force of this Act, 2 months after the coming into force of this Act unless the trade union has registered under this Act.
- (3) Subject to subsection (5), a trade union which fails to comply with subsection (1) or contravenes subsection (2) shall, in addition to any penalties it may become liable under this Act, be wound up by the Registrar and the Registrar shall appoint a liquidator for this purpose.
- (4) Section 24(6) and (7) shall apply to a liquidator appointed under subsection (3).
- (5) Where the National Workers Union does not register as a trade union under and in accordance with subsection (1), the National Workers Union shall be wound up and its assets shall be dealt with in accordance with a written law.
- (6) In subsection (5), "National Workers Union" means the National Workers Union which continues to be a body corporate under the Employment Act, 1990.

7. Application for registration

- (1) An application for registration of a trade union shall be—
 - (a) in the form provided by the Registrar;
 - (b) except in the case of a federation, signed to the satisfaction of the Registrar by not less than such number of members which the Minister may, by notice, specify in the *Gazette*; and
 - (c) be accompanied by—
 - (i) 2 copies of the constitution of the union certified by two office bearers of the union;
 - (ii) the particulars of the registered office of the union;
 - (iii) a list giving the names, address, national identity number and the office of the office bearers of the union;
 - (iv) such other information or document as the Registrar may require for the purpose of satisfying the Registrar that the application complies with this Act;
 - (v) the prescribed fee.
- (2) An application for the registration of a federation shall be signed by the trade unions applying to register the federation.
- (3) Where the Registrar considers that the name of a trade union is objectionable or the constitution of the union does not comply with this Act, the Registrar shall give written notice to the trade union thereof and shall afford the trade union such time as the Registrar considers reasonable in which to submit another name or an amended constitution.
- (4) The Registrar shall refuse an application which does not comply with this Act or where a trade union fails to provide any information or document required by the Registrar under subsection (1) (c)(iv), or fails or refuses to change the name of a trade union or amend the constitution of the union trade as requested by the Registrar under subsection (3).

8. Objection to registration

- (1) The Registrar shall publish in the *Gazette* a notice of an application under [section 7](#) which the Registrar is satisfied on its face is in accordance with this Act.
- (2) A registered trade union may, not later than 21 days after the publication of the notice under subsection (1), lodge a written objection to the application with the Registrar.
- (3) The Registrar shall, not later than 7 days after receiving an objection under subsection (2), by written notice, require the applicant trade union to show cause, within such time which shall be not less than 14 days or more than 21 days as may be specified in the notice, why the objection should not be upheld.
- (4) Where no objection is lodged in accordance with subsection (2) and the Registrar is satisfied that the application complies with the Act, the Registrar shall, after the time specified in that subsection has lapsed, register the trade union.
- (5) Where there is an objection under subsection (2), the Registrar shall consider the application, any objection to the application and any cause shown under subsection (3) and, after making such inquiries as the Registrar consider necessary, register or refuse to register the trade union.
- (6) The Registrar shall give written notice of the decision under subsection (5) and of the ground for refusing to register a trade union or the reason for rejecting an objection, as the case may be, to the trade union affected by the decision.

- (7) A trade union aggrieved by the decision of the Registrar to register or not to register a trade union may, not later than 15 days after the date of the notification of the decision, appeal to the Supreme Court against the decision and the Court may make such order as the Court thinks fit in the circumstances.

9. Grounds for refusal to register

- (1) The Registrar shall not register a trade union if—
- (a) any of the objects of the trade union is unlawful or inconsistent with this Act;
 - (b) the trade union is engaged or is about to engage in activities likely to cause a serious threat to public safety, public order or public health;
 - (c) the provisions of its constitution are ambiguous;
 - (d) except in the case of a trade union of persons in the public service, its membership is open to public officers;
 - (e) its constitution does not contain adequate provision, or it is not organised to provide adequately, for the protection and promotion of the interests of its members in every trade which it purports to represent;
 - (f) any of its officers is not qualified to hold, or is incapable of performing the duties of, the office in which the officer has been elected or appointed;
 - (g) its name is, in the opinion of the Registrar, objectionable in that it is identical to, or nearly resembles, the name of a registered trade union or the name of a trade union whose application precedes the present application or it is provocative or likely to cause confusion or offends against public decency.
- (2) Subsection (1) (d) shall not apply in relation to the registration of a federation comprising of trade unions of persons in the public service and other trade unions.

10. Certificate of registration

The Registrar shall, on registering a trade union, issue a certificate of registration in the prescribed form to the trade union and the certificate shall, unless the registration is subsequently cancelled under this Act, be conclusive evidence that the trade union is registered

11. Consequences of refusal to register

- (1) Where the Registrar has refused to register a trade union, the trade union shall forthwith cease to operate and be wound up—
- (a) if no appeal is lodged under [section 8\(7\)](#), not later than 15 days after the last day on which an appeal may be lodged;
 - (b) if an appeal is lodged under [section 8\(7\)](#) and the appeal is dismissed and there is no further appeal to the Court of Appeal, not later than 15 days after the last day by which a further appeal may be lodged;
 - (c) if an appeal against the decision of the Supreme Court is lodged in the Court of Appeal and the appeal is dismissed, not later than 15 days after the date of the dismissal of the appeal by the Court of Appeal.
- (2) Where a trade union is not wound up in accordance with subsection (1), the trade union shall be wound up by the Registrar and the Registrar shall appoint a liquidator for this purpose.
- (3) [Section 24\(6\)](#) and (7) shall apply to a liquidator appointed under subsection (2).

12. Cancellation of registration

- (1) The registration of a trade union may be cancelled on the ground that—
 - (a) the registration was obtained by fraud or misrepresentation;
 - (b) the trade union has ceased to exist;
 - (c) by reason of any change of circumstances for which the trade union is responsible, the trade union would no longer be eligible for registration;
 - (d) the trade union has engaged, or is about to engage, in activities likely to cause serious threat to public safety, public order or public health;
 - (e) the trade union has contravened its constitution by failing to provide effective representation of the interests of its members in general, or of those of its members who belong to a particular trade; or
 - (f) the trade union has failed to comply with any requirement imposed on it by its constitution or this Part and has persisted in its default after the Registrar has given it written notice specifying the default and fixing a time which shall not be less than 2 months for remedying the default, and that time has expired.
- (2) Where the Registrar is of the opinion that the registration of a trade union should be cancelled, the Registrar shall notify the trade union in writing of the intention to do so and of the ground therefor.
- (3) A trade union referred to in subsection (2) may, within 30 days after the notice under that subsection, lodge an objection to the intended cancellation and the Registrar may, after considering the objection—
 - (a) adjourn the decision to cancel the registration to allow the trade union time to remedy the default or failure;
 - (b) cancel the registration of the trade union.
- (4) Where the Registrar adjourns the decision to cancel a trade union to allow time to remedy a default or failure and the trade union fails to take adequate steps to do so within the time specified by the Registrar, the Registrar shall cancel the registration of the trade union and notify the trade union in writing of the decision and of the ground therefor.
- (5) A trade union whose registration has been cancelled under this section may, within 14 days after being notified of the cancellation, appeal to the Supreme Court against the decision which may make such order as it thinks fit.

13. Consequences of cancellation of registration

- (1) Where the Registrar cancels the registration of a trade union—
 - (a) the Registrar shall publish a notice of the cancellation in the *Gazette*;
 - (b) the trade union shall, upon the publication of the notice in the *Gazette*, forthwith cease to engage in any activity which a trade union may engage in under this Act;
 - (c) the trade union shall be wound up—
 - (i) if no appeal is lodged under [section 12\(5\)](#), not later than 30 days after the last day on which an appeal may be lodged;
 - (ii) if an appeal is lodged under [section 12\(5\)](#) and the appeal is dismissed and there is no further appeal to the Court of Appeal, not later than 15 days after the last day of which a further appeal may be lodged;

- (iii) if an appeal against the decision of the Supreme Court is lodged in the Court of Appeal and the appeal is dismissed, not later than 15 days after the date of the dismissal of the appeal by the Court of Appeal.
- (2) Where a trade union is not wound up in accordance with subsection (1)(c), the trade union shall be wound up by the Registrar who shall appoint a liquidator for this purpose.
- (3) Section 24(6) and (7) shall apply to a liquidator appointed under subsection (2).

Part III – Constitution and administration of trade unions

14. Trade union is a body corporate

- (1) Subject to this Act, a registered trade union shall be a body corporate.
- (2) The property of a registered trade union shall not be disposed of, pledged, mortgaged or charged except with the consent of the majority of the members of the trade union.

15. Constitution of a trade union

- (1) The constitution of a trade union shall provide for all the matters specified in the Schedule.
- (2) A member of a registered trade union shall, on request made to the secretary of the union and on payment of the fee specified in the constitution of the union, be entitled to receive a copy of the constitution of the union within 7 days after the request is made to the secretary.

16. Alteration of constitution

- (1) A registered trade union may alter its constitution or change its name by a resolution approved by the votes of not less than two-thirds of the members of the trade union present and voting at a general meeting of the trade union.
- (2) An alteration of the constitution or a change of name of a registered trade union shall not have effect until it is registered.
- (3) An application for the registration of an alteration of the constitution or change of name of a registered trade union shall be made to the Registrar in the form provided by the Registrar and shall be accompanied by the prescribed fee.
- (4) The Registrar may, by written notice, require the registered trade union making an application under this section to provide such further information which the Registrar may reasonably require for the purpose of considering an application under subsection (3).
- (5) The Registrar shall publish in the *Gazette* a notice of an application to change the name of a registered trade union.
- (6) A registered trade union or a member of the trade union may, not later than 14 days after the publication of a notice under subsection (5), lodge a written objection, together with the reason therefor, to the application with the Registrar and the Registrar may, by written notice, require the person objecting to the application to provide the Registrar with such further information which the Registrar may reasonably require for the purpose of considering the objection.
- (7) The Registrar shall, unless the Registrar considers the objection to be frivolous or vexatious, not later than 14 days after receiving an objection under subsection (6), by written notice, require the applicant trade union to show cause, within such time as may be specified in the notice, why the objection should not be upheld.

17. Consideration of application for alteration of constitution etc.

- (1) The Registrar shall, on registering an alteration of the constitution or a change of name of a registered trade union, issue to the trade union a certificate of the registration.
- (2) The Registrar shall not register an alteration of the constitution or a change of name of a registered trade union if—
 - (a) the alteration or change of name has not been made in accordance with this Act; or
 - (b) at the time of the application for registration of the trade union, the Registrar would not have registered it had—
 - (i) its constitution included a provision contained in the alteration; or
 - (ii) its name been the same or similar to the new name.
- (3) Where the Registrar—
 - (a) refuses to register an alteration of the constitution or a change of name of a registered trade union; or
 - (b) rejects an objection to a change of the name of a registered trade union,the Registrar shall give written notice of the decision to the applicant trade union and, in the case of a rejection of an objection, to the trade union which has made the objection.
- (4) A registered trade union aggrieved by a decision of the Registrar made under this section may, not later than 14 days after the date of the notification, appeal against the decision to the Supreme Court which may make such order as it thinks fit.

18. Membership and right to vote

- (1) A person is eligible to be a member of a trade union if the person is resident in Seychelles and—
 - (a) the person is *bona fide* engaged in a trade which the trade union purports to represent; or
 - (b) if the person is not engaged as provided in paragraph (a), the person has been so engaged at any time for a period of, or periods amounting in aggregate to, not less than 18 months.
- (2) A person has a right to vote at a meeting of a trade union if—
 - (a) the person is a member of the union; and
 - (b) the person is not in arrears with the person's dues to the union by more than 3 months or such shorter period as may be specified in the constitution of the trade union.
- (3) The minimum age for membership of a trade union is 15 years or such greater age as may be specified in the constitution of the trade union.
- (4) Notwithstanding any other written law but subject to [section 20](#) and to the constitution of the trade union, a member of a trade union who is a minor may enjoy all the rights of a member and may execute any instrument or give any discharge required under the constitution of the trade union.

19. Registered office

- (1) A trade union shall have a registered office to which all communication and notices may be addressed and where the books, documents and records relating to the trade union shall be kept and be made available for inspection by the Registrar or any other person having a pecuniary interest in the funds of the union.
- (2) The trade union shall, after its registration, give notice of any change of its registered office to the Registrar not later than 14 days after the date of the occurrence of the change.

- (3) Where a trade union establishes or dissolves a branch, it shall give written notice of the establishment or dissolution of the branch to the Registrar not later than 14 days after the date of the establishment or dissolution.

20. Office bearers

- (1) A person is not qualified to become, hold office as or remain in office as an officer of a trade union if the person—
 - (a) is less than 18 years of age;
 - (b) is of unsound mind;
 - (c) is disqualified under this Act from being an officer of a trade union;
 - (d) is an undischarged bankrupt or is insolvent; or
 - (e) has, within the preceding 3 years, been convicted of an offence involving fraud or dishonesty.
- (2) Notwithstanding [section 18\(1\)](#) but subject to the constitution of a trade union and subsection (3), a person who is not a member of a trade union may stand for election for an office of a trade union and where the person is elected to the office and so long as the person continues to hold the office the person shall be deemed to be—
 - (a) in the case of a trade union which is a trade union of persons in the public service, a person in the public service for the purposes of [section 9\(1\)\(d\)](#); or
 - (b) in the case of a trade union other than a trade union of persons in the public service, to be engaged in the trade which the trade union purports to represent, andfor the purposes of the Act and the constitution of the trade union, to be a member of the trade union.
- (3) A trade union shall prominently display the names and title of each officer of the union in its registered office and in the office of every branch.
- (4) A registered trade union shall, after its registration, not later than 7 days after the occurrence of any change among the officers of the union or in their titles, give written notice of the change to the Registrar.
- (5) Where the Registrar has reasonable ground to believe that a change notified to the Registrar under subsection (4) is not or was not made in accordance with this Act or the constitution of the trade union, the Registrar shall not register the change and shall give written notice to the trade union of the refusal and of the ground therefor.
- (6) A trade union or any other person aggrieved by a decision of the Registrar under subsection (5) may, not later than 14 days after the date of the notification of the decision, appeal against the decision to the Supreme Court which may make such order as it thinks fit.
- (7) Unless the constitution of a trade union provides for a shorter term of office, a person shall hold office as an officer of a trade union for a period of not more than 2 years.
- (8) An officer of a trade union shall be appointed at a general meeting of the members of the trade union in accordance with the constitution of the trade union.
- (9) A person who is not qualified under subsection (1) to hold office or remain in office as an officer of a trade union and who stands for election for an office of the trade union or remains in office when so disqualified shall, in addition to any other penalty under this Act, be disqualified to hold office as an officer of a trade union for period of 2 years.

21. Meeting of trade unions

- (1) A registered trade union shall in each year hold a general meeting as its annual general meeting in addition to any other general meeting in that year for the purpose of considering the statement of accounts of the trade union for the preceding year.
- (2) The notice convening an annual general meeting shall, not less than 21 days before the meeting, be given in writing to all the members of the trade union and be published in two consecutive issues of a local daily newspaper of wide circulation in Seychelles.
- (3) The notice convening the annual general meeting of a registered trade union shall—
 - (a) specify that the meeting is convened as an annual general meeting; and
 - (b) state the business which is to be transacted at the meeting.
- (4) Where an annual general meeting of a registered trade union consists of a meeting of delegates of branches of the trade union, the trade union shall, at the time of the publication of the notice under subsection (2) give each branch written notice setting out all the matters to be considered at the meeting and the number of delegates to be elected by each branch
- (5) Each branch of a registered trade union referred to in subsection (4) shall, not later than 7 days after the publication of a notice under subsection (2), convene a general meeting at which—
 - (a) all the matters to be discussed at the annual general meeting of the delegates shall be considered;
 - (b) the delegates to represent the branch shall be elected; and
 - (c) where the matters to be discussed at the annual general meeting include a resolution which, under this Act or the constitution of the trade union, must be approved by the members of the trade union, there shall be taken a ballot of the members of the branch on the resolution.

22. Taking of ballots

- (1) Where a trade union proposes to take a ballot for any of the purposes specified in this Act or in its constitution it shall, not less than 21 days before the date of the taking of the ballot, give a written notice of the ballot to all the members of the union and the Registrar and publish the notice in two consecutive issues of a local daily newspaper of wide circulation in Seychelles.
- (2) A notice under subsection (1) shall specify—
 - (a) the day on which and the time and place at which the ballot is to be taken; and
 - (b) the matter which is to be determined by the ballot.
- (3) The persons appointed by the Registrar under subsection (4) to scrutinise and count a ballot shall, after the counting of the votes, secure and seal the ballot papers which have been counted and those which have been rejected in separate parcels and the ballot papers shall be retained by the trade union for a period of not less than 6 months and certify the result of the ballot to the Registrar.
- (4) The Registrar shall, each time a ballot is to be taken by a trade union, appoint a person, not being a member of the trade union or an employer, or an officer of the employer of the members of the union, to supervise and scrutinise the ballot and for the purposes of subsection (1).

23. Federation and amalgamation

- (1) Subject to this section, 2 or more registered trade unions may combine to form a federation or amalgamate to form one trade union if a resolution for the formation of the federation or the

- amalgamation is approved, on a ballot, at a general meeting of each trade union concerned, by a majority of all the members of that trade union qualified to vote under [section 18\(2\)](#).
- (2) A federation or an amalgamation under subsection (1) shall not have effect until the federation or the trade union formed by the amalgamation is registered by the Registrar.
 - (3) The Registrar shall, before registering a federation of trade unions, publish a notice of the formation of the federation in the *Gazette*.
 - (4) A registered trade union or a registered federation may, not later than 14 days after the publication of a notice under subsection (3), lodge a written objection together with the reason therefor to the registration of the federation and the Registrar may, by written notice, require the trade union or federation to provide the Registrar with such information which the Registrar may reasonably require for the purpose of considering the objection.
 - (5) The Registrar shall, unless the Registrar considers the objection to be frivolous or vexatious, not later than 14 days after receiving an objection under subsection (4), by written notice, require the person applying for the registration of the federation to show cause, within such time as may be specified in the notice, why the objection should not be upheld.
 - (6) Where the Registrar registers a trade union formed by an amalgamation of 2 or more trade unions—
 - (a) the Registrar shall cancel the registration of the trade unions which formed the amalgamation;
 - (b) the assets, rights, liabilities and obligations of the trade unions which formed the amalgamation shall devolve upon and vest in the trade union formed by the amalgamation.
 - (7) The registration of a federation shall not affect the assets, rights, liabilities or obligations of each of the trade unions forming part of the federation.
 - (8) The Registrar may refuse to register a federation—
 - (a) where the Registrar has reasonable ground to believe that a relevant provision of this Act or the constitution of a trade union forming part of the federation has not been complied with or the function of the federation is not consistent with the constitution of a trade union forming part of the federation;
 - (b) where the Registrar is of the opinion that the name of the federation is objectionable in that it is identical to or nearly resembles the name of a registered federation or the name of a federation whose application for registration precedes the present application or it is otherwise provocative or likely to cause confusion or offends against public decency.
 - (9) The Registrar may, in addition to any of the grounds set out in [section 9](#), refuse to register a trade union formed by an amalgamation of 2 or more trade unions where the Registrar has reasonable ground to believe that a relevant provision of this Act or the constitution of a trade union which is the subject of the amalgamation has not been complied with or the amalgamation is not consistent with the constitution of a registered trade union which is the subject of the amalgamation.
 - (10) Where the Registrar refuses to register a federation or rejects an objection to the registration of the federation, the Registrar shall give written notice of the refusal and of the ground therefor to the applicant or the trade union or federation which made the objection under subsection (4).
 - (11) A registered trade union or a registered federation aggrieved by a decision of the Registrar under subsection (10) may, not later than 14 days after the date of the notification of the decision, appeal to the Supreme Court which may make such order as it thinks fit.

24. Dissolution of trade unions

- (1) Subject to subsection (2), a trade union may be dissolved where, at a meeting held in accordance with the constitution of the trade union, a resolution for its dissolution is approved by the votes of not less than two-thirds of the members of the union present and voting at the meeting.

- (2) Where, under the constitution of a trade union, provision is made for a special fund, the dissolution of the trade union shall not have effect until a majority of all the members who contributed to the special fund has approved the manner of the disposal of the fund.
- (3) A registered trade union shall, not later than 14 days after the approval of a resolution under subsection (1) to dissolve the union, give written notice of the resolution together with a statement of account of the assets and liabilities of the trade union audited by the auditor of the trade union to the Registrar.
- (4) Where the Registrar receives a resolution under subsection (3) and the Registrar is satisfied that subsection (1) and, where applicable, subsection (2) have been complied with in relation to the resolution, the Registrar shall, not less than 7 days after receiving the resolution, publish a notice of the dissolution in the *Gazette* and in a local daily newspaper of wide circulation in Seychelles.
- (5) The dissolution of a registered trade union shall have effect from the date of the publication of the notice in the *Gazette* under subsection (4).
- (6) Upon the dissolution of a registered trade union all the assets of the trade union shall become vested in a liquidator appointed by the Registrar and the fees of the liquidator shall be paid out of the assets of the trade union in priority to any other payment or claim.
- (7) A liquidator appointed under subsection (6) shall have power with the sanction of the Supreme Court or the Registrar—
 - (a) to realise the assets of the trade union and to execute all documents in this connection;
 - (b) to bring and defend any action or legal proceedings in the name of the trade union for the purpose of recovering any debt or assets of the trade union or to make any compromise with regard to any debt or obligation owed to the trade union and to give a valid discharge in connection with any of the debts or assets;
 - (c) to pay the creditors and meet all the liabilities of the creditors of the trade unions, or make any compromise or arrangement with creditors or in relation to claims against the trade union;
 - (d) where there are any assets of the trade union remaining after meeting all claims and liabilities of the trade union, to distribute the assets in accordance with this Act or the constitution of or any resolution passed by the trade union at the meeting called for the purpose of approving the dissolution of the trade union.

25. Application of funds

- (1) Subject to subsections (2) and (3) and [section 26](#), a trade union shall apply its fund for—
 - (a) expenditure incurred in relation to the trade union for the purpose of complying with this Act;
 - (b) the payment of reasonable emoluments to its officers and employees;
 - (c) reasonable expenditure for the administration of the trade union and the auditing of its accounts;
 - (d) the conduct of legal proceedings to which the trade union or any of its members is a party, where the proceedings are undertaken for the purpose of securing or protecting any right of the trade union or of any of its members in relation to a contract of employment or a collective agreement;
 - (e) the conduct of an industrial dispute on behalf of the trade union or any of its members, and the payment of compensation to its members for any loss arising out of an industrial dispute;
 - (f) payment of benefits to its members or their dependents on account of accident, unemployment, sickness, old age or death; and

- (g) any other purpose prescribed under this Act.
- (2) A trade union shall not apply any of its funds either directly or indirectly in payment of any penalty imposed upon a person by any court, other than a penalty imposed upon the trade union itself.
- (3) A trade union shall not apply any of its funds in support of or in connection with an unlawful strike or lock-out.
- (4) Where, under the constitution of a trade union, provision is made for any special fund, the provision applicable to the special fund—
 - (a) shall specify the expenses and benefits which may be paid out of that fund;
 - (b) shall not be altered except by resolution approved, on a ballot, by a majority of the members who contribute to that fund.

26. Restriction of use of assets of a trade union for political purposes

- (1) Subject to this section, a trade union shall not apply or otherwise use any of its funds or other assets for a political object or for contributing to the political fund of the union.
- (2) A trade union may, where its constitution so provides, set up a political fund from which payments for political objects may be made.
- (3) Contribution to the political fund may be made by the members of the trade union but it shall not be a condition of membership to the union that a member contributes to the fund.
- (4) A member of a union shall not be liable to contribute to a political fund unless the member has, by written notice to the trade union, agreed to contribute to that fund.
- (5) A member of a trade union who is not liable to contribute to a political fund shall not be excluded from any benefits of the trade union, or placed in any disability or at any disadvantage as compared with other members who contribute to the political fund, except in relation to the control and management of the fund.

27. Political fund of a federation

Where a federation has set up a political fund, a constituent trade union of the federation shall not contribute to the fund unless—

- (a) the constituent trade union has set up a political fund;
- (b) the constituent trade union has, with the approval, on a ballot, of a majority of the members of the constituent trade union who contribute to its political fund, given written notice to the federation that it agrees to contribute to the political fund; and
- (c) the contribution of the constituent trade union to the political fund of the federation is paid exclusively from the political fund of the constituent trade union.

28. Notice to contribute to political fund

- (1) Unless otherwise specified in the notice, a notice under [section 26\(4\)](#) or [section 27\(b\)](#) shall have effect from the first day of the month following the month in which it is given and, subject to subsection (2), shall cease to have effect on the last day of the month following the month in which a written notice of intention to cease to contribute to a political fund is given.
- (2) In the case of contribution to the political fund of a federation, a constituent trade union shall not give notice to cease to contribute to a political fund of the federation unless the approval, on a ballot, of a majority of the members of the constituent union who contribute to its political fund, has been obtained.

29. Misapplication of funds

- (1) Where the Registrar or 5 or more members of a trade union have reason to believe that a trade union is incurring expenditure in breach of this Act or its constitution they may apply to the Supreme Court to restrain the trade union from incurring the expenditure and, on such application, the Court may make such order as it thinks fit.
- (2) Where an application under subsection (1) is made in relation to a trade union which has been or is about to be dissolved, the Supreme Court may order that the assets of the trade union be vested in the Registrar.
- (3) Where an order under subsection (2) has been made, the assets of the trade union shall vest in the Registrar and the trade union shall be wound up by the Registrar in the prescribed manner.

30. Keeping of accounts and records

- (1) A trade union shall keep a record of all money received and paid by the trade union and shall—
 - (a) in respect of each year; or
 - (b) where required so to do by its constitution,render a true account of all money received or paid in the year or, in the case of paragraph (b), since the last account was rendered.
- (2) A trade union shall, before the 31st January of every year, prepare a statement made up to the 31st December of the immediately preceding year of all receipts and expenditure of the trade union and of all assets and liabilities of the trade union existing on the 31st December of that year.
- (3) Every account or statement prepared under this section shall be in the prescribed form and shall be audited by a person licensed as an auditor under any written law regulating the activities of a person providing services as an auditor and appointed by the trade union.

31. Statement of accounts to annual general meetings

- (1) A trade union shall submit the statement prepared under [section 30\(2\)](#) together with the report of the auditor thereon for the approval of the members of the trade union at its annual general meeting and shall, on the application of a member of the trade union, deliver a copy of the statement and auditor's report to the member.
- (2) A trade union shall exhibit in its registered office and in the office of each of its branch a copy of the most recent statement prepared under [section 30\(2\)](#) together with the resolution of the members of the trade union under subsection (1) approving or otherwise the statement.

32. Annual return to Registrar

A trade union shall, on or before the 1st April in each year, submit to the Registrar a return, in the prescribed form, containing—

- (a) a copy of the statement prepared under [section 30\(2\)](#), a copy of the auditor's report thereon and a copy of the resolution of the members of the trade union approving or otherwise the statement, all certified by 2 officers of the union;
- (b) a statement of the names, address, national identity number of each of its officers; and
- (c) a return of its membership as at 31st December of the immediately preceding year.

33. Retention and inspection of records

- (1) A trade union shall retain—
 - (a) for a period of at least 5 years after the last date to which they relate—
 - (i) all books and statements of accounts and auditor's reports;
 - (ii) all registers of members, and all records of money paid by members of the trade union;
 - (b) for a period of at least 5 years after their date of origin, all minutes of meetings (including branch meetings), vouchers, receipts, correspondence and other documents relating to the affairs of the trade union.
- (2) A trade union shall allow a member of the union to inspect the books, accounts and register of members of the trade union on giving of reasonable notice to the trade union.

34. Power of Registrar in relation to records of trade unions

- (1) The Registrar may verify, inspect, take copies of or take extract from or audit or cause to be audited the books, accounts, records and registers of members of a trade union and, for this purpose, may require a trade union or an officer of the union to appear and produce for the Registrar's inspection the books, accounts, records and register of members of the trade union.
- (2) A trade union or the officer of a trade union specified in the notice shall, not later than 21 days after being notified in writing by the Registrar, furnish the Registrar with such information relating to the trade union, including detailed accounts of the funds or other assets of the trade union or its branches, as may be specified in the notice.

35. Duty of treasurer on leaving office

- (1) A person holding the office of treasurer of a trade union shall—
 - (a) on resignation;
 - (b) on the expiry of a term of office; or
 - (c) where required by the constitution of the trade union,
render to the trade union a true account of all moneys received and paid by the person for or on behalf of the trade union since being appointed to the office or rendering the last account.
- (2) A person who has held office as treasurer of a trade union shall hand over to the trade union the balance of any money which on any audit is due from the person to the trade union and all bonds, securities, books, documents, papers or other property of the trade union in the person's possession, control or custody.
- (3) Where a person referred to in subsection (2) fails to comply with that subsection, the trade union, a member of the trade union on behalf of the trade union or the Registrar may apply to the Supreme Court to recover—
 - (a) the balance of money appearing to be due upon the account last rendered by the person;
 - (b) all money received by the person on account of the trade union;
 - (c) all bonds, securities, books, documents, papers or other property of the trade union in the person's possession, control or custody.

Part IV – Protection of fundamental rights of workers

36. Right of worker to join or not a trade union

An employer shall not refuse to engage a person or dismiss, penalise or otherwise discriminate against an employee because the person or employee is a member or officer of a trade union or refuses to become a member of a trade union or take part in the activities of a trade union.

37. Protection against victimization by trade unions

Notwithstanding anything in the constitution of a trade union, a person who refuses to participate in, or otherwise to act in furtherance of, a strike or lock-out or refuses to take any other action which is unlawful, shall not, by reason of the refusal be subject to—

- (a) expulsion from a trade union;
- (b) removal from office as an officer of a trade union;
- (c) any fine or penalty imposed by a trade union;
- (d) deprivation of any right or benefit to which the person or the legal representatives of the person would otherwise be entitled; or
- (e) any disability or disadvantage, whether direct or indirect, as compared with other members of the trade union.

38. Closed shop agreement to be void

- (1) An employer shall not enter into an agreement with a trade union which purports to—
 - (a) preclude the employer from engaging an employee who is not a member of the trade union;
 - (b) preclude the employer from engaging an employee who has not been recommended or approved by the trade union;
 - (c) require that one of the conditions of employment of an employee shall be that the employee becomes a member of the trade union.
- (2) A person who has been refused employment and who claims that the refusal was attributable wholly or partly to a provision in an agreement as is specified in subsection (1), may apply to the Supreme Court for an order under subsection (3).
- (3) Where, on an application under subsection (2), the Supreme Court finds—
 - (a) that a provision in an agreement as is specified in subsection (1) is or was in force; and
 - (b) that the refusal to employ the applicant was wholly or partly attributable to that provision,the Supreme Court shall declare the provision to be void and may, notwithstanding any other penalty which the employer may be liable under this Act, make such order as the Court thinks fit including an order that the employer pays to the applicant such sum by way of compensation as the Court thinks fit.

Part V – Promotion of industrial relations

39. Agreement for representational status

- (1) An employer and a registered trade union of employees may and shall, where the trade union has 10 or more of its members in the employment of the employer, enter into an agreement where by

the employer recognises the representational status of the trade union in relation to the employer's employees who are members of the trade union.

- (2) An agreement under subsection (1) shall be in writing and shall provide—
 - (a) that the employer recognises the trade union as the sole representative of, and exclusive bargaining agent for, the employees who are members of the trade union for the purpose of collective bargaining between the employer and the employees;
 - (b) for procedures, method and remedies relating to dispute settlement between the employer and the employees; and
 - (c) for procedures for reviewing, amending or terminating the agreement.
- (3) An agreement under subsection (1) shall, within 7 days after its signature, be lodged in quadruplicate with the Registrar who shall, within 21 days after lodgment of the agreement, certify the agreement and send a copy thereof to the Minister and return a copy each to the employer and the union.

40. Order for representational status

- (1) Subject to subsection (2), a registered trade union of employees which has been refused representational status by an employer employing any of the members of the union may apply to the Supreme Court for an order directing the employer to recognise the representational status of the trade union.
- (2) Where an application under subsection (1) relates to an employer in respect of whom the same trade union has previously made an application, the Supreme Court shall not consider the application unless—
 - (a) it is made after one year from the date on which the Court decided the previous application; and
 - (b) the applicant satisfies the Court that there has, since the previous application, been a change in circumstances sufficient to justify another application.
- (3) Subject to subsection (4), the Supreme Court may make an order under this section where it is satisfied that—
 - (a) the applicant has sufficient resources and is sufficiently well organised to effectively represent its members;
 - (b) the grant of the application is not likely to affect adversely any existing or proposed collective agreement; and
 - (c) the grant of the application is conducive to good industrial relations.
- (4) The Supreme Court shall not, unless it considers that there are exceptional circumstances, make an order under this section where the applicant has less than 10 members in the employment of the employer.

41. Revocation of order

Where there has been a change of circumstances which would justify the revocation of an order made under [section 40](#), the Supreme Court may, at the instance of an employer, revoke the order.

42. Collective agreement

- (1) A registered trade union of employees and an employer or a registered trade union of employers may enter into a collective agreement regulating the terms and conditions of employment of the members of a registered trade union employed by the employer or by the members of the trade union of employers.

- (2) A collective agreement under subsection (1) shall be in writing and, in the case of a trade union, be approved, on a ballot, by not less than two-thirds of the qualified members of the trade union and come into force when it is approved by the Minister.
- (3) The parties to a collective agreement shall lodge 3 original copies of the agreement with the Minister for the purposes of this section.
- (4) The Minister shall not approve a collective agreement under this section if it does not comply with this Act.
- (5) The Minister shall, within 14 days after a collective agreement is submitted for the Minister's approval, approve or refuse to approve the agreement and shall give to the parties to the agreement written notice of the Minister's decision and—
 - (a) in the case of an approval, return to each of the parties a copy of the approved agreement; or
 - (b) in the case of a refusal to approve, return to the person who submitted the agreement the copies of the agreement together with the reasons for the refusal to approve.
- (6) The decision of the Minister under subsection (5) shall be subject to judicial review by the Supreme Court on the application, within 14 days after the date of receipt of the Minister's decision, of a party to a collective agreement.
- (7) Subsections (1) to (6) shall have effect to an amendment to or renewal of a collective agreement as if the amendment or renewal were a collective agreement.
- (8) A collective agreement shall, unless renewed, come to an end on the date specified in the agreement.
- (9) For the purposes of subsection (2), a qualified member of a registered trade union means a member of the trade union who is qualified to vote under [section 18\(2\)](#) and who is employed by an employer or registered federation of employers which is a party to a collective agreement with the trade union of employees.

43. Conditions for check-off agreement

- (1) Subject to the subsection (2), an employer shall not refuse to enter into a check-off agreement with a trade union of employees—
 - (a) where the employer and trade union have entered into a representational status agreement under [section 39](#);
 - (b) where the Supreme Court has made an order for representational status under [section 40](#) against the employer in respect of the trade union; and
 - (c) where the employer employs not less than 10 members of the trade union.
- (2) An employer may, at any time, enter into a check-off agreement with a trade union of employees.

44. Registration of check-off agreement

- (1) A check-off agreement shall be made out in quadruplicate, signed by the parties and within 7 days after its signature, be lodged with the Registrar who shall, within 14 days after lodgment, register the agreement and send a copy to the Minister and return a copy each to the parties.
- (2) A check-off agreement shall not have effect until it is registered under subsection (1).
- (3) A trade union with which an employer shall not refuse to enter into a check-off agreement under [section 43\(1\)](#) may, where the employer refuses to enter into the agreement, apply to the Supreme Court for an order directing that a check-off agreement should have effect between the trade union and the employer and the Court may, on hearing the application, make such order as it thinks fit.

- (4) Where the Supreme Court has refused on application under subsection (3), the Supreme Court shall not consider another application made by the trade union in respect of the same employer unless—
- (a) it is made after one year from the date on which the Court decided the previous application; and
 - (b) the applicant satisfies the Court that there has, since the previous application, been a change in circumstances sufficient to justify another application.

45. Effect of check-off agreement

Where there is in force a check-off agreement—

- (a) a deduction of dues from the wages of an employee who is a member of a trade union which is party to the agreement shall only be made where the employee has given written authorisation to the employer to make the deduction;
- (b) the first deduction made pursuant to the authorisation under paragraph (a) shall be made from the wages earned for the month following the month in which the authorisation is received by the employer;
- (c) the authorisation under paragraph (a) shall cease to have effect on the last day of the third month following the month in which written notice is given by the employee of the employee's intention to cease to pay dues to the trade union;
- (d) the employer shall, not later than the 14th day of each month, give written notice to the trade union of the names of any person who had given notice under paragraph (a)—
 - (i) who has ceased to be employed by the employer; or
 - (ii) who has given notice under paragraph (c) to the employer;
- (e) where dues are validly altered in amount by a trade union—
 - (i) the trade union shall give written notice of the alteration to the employer; and
 - (ii) the employer shall deduct the amount of the dues as altered from the wages earned by an employee for the month following the month in which the notice of alteration is received by the employer;
- (f) the employer shall make not more than one deduction in respect of any month and the deduction shall not exceed the dues payable by a member of the trade union for one month;
- (g) a deduction shall only be made after all deduction required or permitted to be made by or under any other written law have been made;
- (h) the whole amount of the deductions shall accrue to the trade union and, notwithstanding any other written law, the amount shall not be treated as part of the assets of the employer in the event of a winding-up or the employer becoming bankrupt or on the death of the employer, as the case may be;
- (i) the employer shall, not later than 15 days after making the deduction—
 - (i) pay the amount of the deduction to the trade union; and
 - (ii) where the amount is remitted to the bank account of the trade union, give written notice to the trade union of the remittance;
- (j) the trade union shall, not later than 15 days after receiving the amount or being notified of the remittance under paragraph (i), as the case may be, deliver a written acknowledgement of the payment or remittance to the employer.

Part VI – Industrial disputes

46. Voluntary settlement of industrial dispute

- (1) Where there is an industrial dispute or an apprehension of an industrial dispute between a trade union of employees and an employer or a trade union of employers, the trade union of employees and the employer or trade union of employers shall first attempt to resolve the dispute—
 - (a) where they have entered into a collective agreement and the agreement is still subsisting and makes provision for the settlement of dispute between them, in accordance with the agreement; or
 - (b) where they have not entered into a collective agreement, amicably.
- (2) Where the parties to an industrial dispute fail to resolve the dispute as provided under subsection (1) and the parties or any one of them wishes to have the dispute referred to the Board under [section 47\(2\)](#), the parties or that party shall not later than 15 days after the failure to resolve the dispute—
 - (a) report the matter to the Registrar;
 - (b) request the Registrar to transmit the report to the Minister for the purpose of referral to the Board;
 - (c) give the name of the persons or person, as the case may be, the parties or party recommends for appointment on the Board.
- (3) A report under subsection (2) shall be in writing and shall specify—
 - (a) the parties to the dispute;
 - (b) every issue or matter giving rise to the dispute;
 - (c) the particulars of the attempt made under subsection (1) to resolve the dispute;
 - (d) the parties or party making the report,and there shall be attached to the report a copy of any subsisting collective agreement between the parties.
- (4) The Registrar shall, within 7 days after receiving the report referred to in subsection (3), submit it together with the name or name of person or persons recommended under subsection 2(c), the copy of any subsisting collective agreement between the parties and any additional comments or recommendation the Registrar wishes to make in respect of the report to the Minister.
- (5) Where the parties to an industrial dispute succeed in resolving the dispute under subsection (1), the settlement shall—
 - (a) be reduced to a writing;
 - (b) be signed by the parties to the dispute;
 - (c) constitute a collective agreement or, where there is a subsisting collective agreement between the parties, an amendment to the agreement in terms of [section 42](#);
 - (d) comply with [section 42](#).

47. Reference to Dispute Settlement Board

- (1) Where the Minister receives a report under [section 46\(2\)](#), the Minister shall—
 - (a) where the request for referral to the Board is made by one party, request the other party specified as the other party to the industrial dispute in the report, to provide the Minister, within 15 days of the Minister's request, with the name of the person the other party recommends for appointment on the Board; and
 - (b) advise the parties to the dispute the date of the receipt of the report.
- (2) The Minister shall, within 7 days after the Dispute Settlement Board is constituted under [section 48](#), refer the report to the Board which shall meet with all diligence for the purposes of this section.
- (3) The Dispute Settlement Board shall determine—
 - (a) whether the matter contained in the report is an industrial dispute in terms of this Act; and
 - (b) if so, whether the parties involved in the dispute are the relevant parties to the dispute.
- (4) Where the Board determines that one of the conditions specified in subsection (3) is not satisfied, the Board shall reject the report and advise the Minister and each of the parties named as parties to the dispute in writing of its determination and of the reasons therefor and a party aggrieved may, within 7 days of the decision, appeal to the Supreme Court which may make such order as the Court thinks fit.
- (5) Where the Board or the Supreme Court on an appeal under subsection (4) determines that the conditions specified in subsection (3) are satisfied, the Board shall seek to settle the dispute.
- (6) Where the Board succeeds in settling an industrial dispute under this section, the settlement shall—
 - (a) be reduced to writing;
 - (b) be signed by the parties to the dispute, after the settlement has been approved as provided in [section 42\(2\)](#);
 - (c) constitute a collective agreement or, where there is already a collective agreement between the parties, an amendment to the agreement in terms of [section 42](#);
 - (d) comply with the other provisions of [section 42](#).
- (7) Where the Board after a period of 7 days or such longer period that the parties to the dispute may agree, fails to find a solution to the dispute, the Board shall advise the Minister and the parties to the dispute in writing of its failure and of its opinion therefor.

48. Dispute Settlement Board

- (1) A Dispute Settlement Board shall consist of a Chairman and 2 other members who shall all be appointed by the Minister.
- (2) The two other members of the Board referred to in subsection (1) shall, subject to subsection (3), be the 2 persons recommended by the parties to an industrial dispute as provided in [sections 46 and 47](#).
- (3) Where a party to a dispute fails to recommend a member to the Board in accordance with this Part, the Minister shall appoint that member of the Board not later than 7 days from the last date when the recommendation should have been made.
- (4) Except as it is otherwise provided under this Part, a Dispute Settlement Board shall regulate its own procedure.

49. Further attempt at voluntary settlement

- (1) Where a Board advises the Minister under section 47(7) of its failure to find a solution to a dispute, the Minister may, with a view to promoting a settlement of the dispute—
 - (a) make proposals to the parties for the settlement of the dispute; or
 - (b) recommend to the parties that the matter be returned to the Board for further consideration by it for such period that the parties
- (2) A settlement agreed to by the parties under subsection (1)(a) or arrived at after a matter has been returned to the Board under subsection (1)(b) shall be treated as a collective agreement or an amendment thereto, as the case may be, under [section 42](#).

50. Compulsory award

- (1) The Minister shall—
 - (a) where the Minister has submitted proposals to the parties under [section 49](#)(1) and the parties have, within 15 days after the Minister has submitted the proposals, jointly declared in writing to the Minister that they require a longer period to endeavour to reach a settlement, within 7 days after the lapse of the period declared by the parties; or
 - (b) in any other case, not less than 10 days and not more than 15 days after the Minister has received a report under [section 46](#),

notwithstanding the commencement of a strike or lock-out by one of the parties to the dispute which is the subject of a report submitted under [section 46](#), refer the dispute to the Industrial Relations Tribunal.
- (2) Where a dispute is referred to the Tribunal under subsection (1), the Tribunal shall, as soon as practicable, inquire into the dispute and make an award on it.
- (3) An award made by the Tribunal under this section shall—
 - (a) have effect on the day next following the day the Tribunal makes the award;
 - (b) subject to this section, bind the parties for a period of 2 years from the date of the award or for such other period as the Tribunal may specify in the award;
 - (c) constitute, in terms of [section 42](#), a collective agreement or, where there is a subsisting collective agreement, an amendment to the subsisting collective agreement between the parties.
- (4) A strike or lock-out which has commenced in relation to a dispute in respect of which the Tribunal has made an award shall be unlawful on the day the award becomes effective under subsection (3).
- (5) A party to whom an award made under this section applies may, while the award is in force, apply to the Tribunal for a variation of the award and the Tribunal may, after hearing all the parties to the award, vary the award where it is satisfied that there has been, since the making of the award, a change of circumstances which justifies the variation and the variation shall have effect as if it were an award under subsection (3).
- (6) A party to dispute in respect of which an award has been made under this section may, within 14 days of the date of the award, invoke the supervisory jurisdiction of the Supreme Court.
- (7) A copy of an award or a variation of an award under this section shall be lodged with the Minister within 14 days after the making of the award or variation.

51. Industrial Relations Tribunal

- (1) There is established for the purposes of this Act a tribunal to be known as the Industrial Relations Tribunal.
- (2) The Tribunal shall consist of a Chairman and 4 other members who shall, subject to this section, be appointed annually by the Minister.
- (3) The Chairman shall be a person qualified in law and the Minister shall appoint the 4 other members after consultation with the trade unions of employees and employers.
- (4) The quorum for the Tribunal shall be the Chairman and 2 other members.
- (5) A member of the Tribunal shall not take part in an inquiry in relation to a matter in which the member has a direct or indirect pecuniary interest.
- (6) A member of the Tribunal has, when performing the function of a member of the Tribunal, the same protection and immunity as afforded to a judge.
- (7) The Tribunal when inquiring into a dispute may—
 - (a) summon and examine a witnesses upon oath;
 - (b) compel the production of and inspect documents;
 - (c) receive in evidence a statement, document, information or matter that may, in the opinion of the Tribunal, assist it to deal effectively with the dispute before it, whether or not the statement, document, information or matter would be admissible in a court.

52. Strike or lock-out

- (1) A strike or lock-out shall not commence—
 - (a) unless—
 - (i) there is an industrial dispute;
 - (ii) the dispute has been reported to the Minister under [section 46](#);
 - (iii) subject to this section, 45 days have elapsed since the date the report was received by the Minister under [section 46](#) and the dispute has not been settled by a Board; and
 - (iv) where the party calling the strike or lock-out is a trade union, the strike or lock-out has been approved, on a ballot, by the votes of not less than two-thirds of the members of the trade union present and voting at the meeting of the trade union called for the purpose of considering the issue;
 - (b) if 60 days has elapsed since the date on which the Minister received the report under [section 46\(4\)](#);
 - (c) except in relation to the parties to an industrial dispute as determined by a Board or the Supreme Court under [section 47](#), or where there is no such determination, named in the report made to the Minister under [section 46](#).
- (2) Where the parties to an industrial dispute have agreed under [section 47\(7\)](#) or [section 49\(1\)](#) to allow a Board a longer period to find a settlement to a dispute or where a party to a dispute has appealed to the Supreme Court under this Part against any decision, the 45 day and 60 day periods referred to in subsection (1) shall each be extended by such longer period or any period which the Supreme Court take to decide the appeal, as the case may be.
- (3) Where an industrial dispute is in respect of an essential service, the period of 45 days referred to in subsections (1) and (2) shall read 50 days.

- (4) Where a strike or lock-out in accordance with this section has commenced and the Minister is of the opinion that the continuance of the strike or lock-out would endanger public order or the national economy or public health or cause irreparable damage to the environment, the Minister may, by notice published in the *Gazette*, declare the strike or lock-out to be unlawful and shall give reason in support of the declaration.
- (5) Where the Minister makes a declaration under subsection (4), the strike or lock-out shall be unlawful for a period of 60 days beginning with the day next following the day of the publication of the declaration.
- (6) For the purposes of this section, "essential service" means—
 - (a) a service relating to the generation, supply or distribution of electricity;
 - (b) any hospital or medical services;
 - (c) a service relating to the supply or a distribution of water;
 - (d) a service relating to the sewerage service;
 - (e) port and marine services;
 - (f) a service relating to civil aviation;
 - (g) the firebrigade;
 - (h) a service relating to telecommunication;
 - (i) a service declared by the Minister by notice in the *Gazette* to be an essential service.

53. Picketing

Subject to any other written law, where there is an industrial dispute between an employer or a trade union of employers and a trade union of employees—

- (a) the employer, not being a trade union, or
- (b) a person who—
 - (i) is a member of the trade union;
 - (ii) is an employee of the employer or a member of the trade union of employers; and
 - (iii) is authorised in writing by the trade union,

may, in connection with the dispute, attend, either alone or in reasonable numbers and at a reasonable time, at or near a place, where the employer or a member of the trade union of employers referred to in paragraph (a) carries on business or operates or where any other employees of the employer or a member of the trade union of employers works, for the purpose of peacefully obtaining or communicating information or of peacefully persuading any other person to work or abstain from working.

Part VII – Offences

54. Offences by trade unions and its officers

- (1) A trade union or an officer of a trade union who contravenes this Act is guilty of an offence and liable to a fine of R10,000.
- (2) Where under this Act a trade union is required to be wound up or to perform any obligation or is prohibited from doing any act or otherwise contravenes this Act and the trade union is not wound up or does not perform the obligation in the manner and within the time prescribed by this Act or

contravenes this Act, each officer of the trade union shall, unless the officer satisfies the court that the failure to wind up the trade union or of the trade union to perform the obligation in the manner and within the time prescribed by this Act or that the contravention of this Act by the trade union did not occur because of the consent, connivance or neglect of the officer, be guilty of an offence and liable to a fine of R10,000.

- (3) Where an offence under subsection (2) relates to a misapplication of funds of the trade union under [section 25](#) or [section 26](#), in addition to the penalty specified under subsection (2)—
- (a) the officer shall be disqualified for a period of 3 years from being an officer of a trade union; and
 - (b) the court may order the officer to refund to the trade union the amount of the funds illegally applied.

55. Offences by other persons

A person, other than a registered trade union or an officer of a trade union, who contravenes this Act is guilty of an offence and liable to a fine of R5000.

56. Offences relating to strike or lock-out

- (1) A person who, in connection with any strike or lock-out which is unlawful—
- (a) calls, institutes, organises, carries on, procures or invites another person to take part in, the strike or lock-out;
 - (b) takes part in or assists in the strike or lockout,
- is guilty of an offence and liable to a fine of R5,000 and to imprisonment for 6 months.
- (2) A person who ceases work or refuses to continue work, being work which under the person's terms and conditions of employment the person is bound to do, in circumstances which give rise to a reasonable suspicion that the person is taking part in or acting in furtherance of an unlawful strike, and fails to satisfy the court that the cessation of work or refusal to continue work, as the case may be, are for causes wholly unconnected with that strike, is guilty of the offence of taking part in an unlawful strike under subsection (1).
- (3) A person who, for the purpose of promoting or maintaining a strike or lock-out which is unlawful, directly or indirectly contributes financial assistance—
- (a) to a trade union of employees which calls, organises or carries on the strike, or to any employee who takes part in or assists in the strike; or
 - (b) to an employer or trade union of employers which institutes, takes part in or assists in the lock-out,
- is guilty of an offence and liable to a fine of R10,000.
- (4) A trade union or an employee or employer or any other person who receives financial assistance for the purpose of promoting or supporting a strike or lock-out which is unlawful is guilty of an offence and liable to a fine of R5,000.
- (5) Where a person who commits an offence under this section was at the time of the offence an officer of a trade union, it shall be presumed, until the contrary is proved, that the person committed the offence with the authority of the trade union.
- (6) Where an officer of a trade union commits an offence with the authority of the trade union, every person who at the time of the offence was an officer of the trade union shall likewise commit that offence, unless the person satisfies the court that the offence was committed without the person's consent or connivance and that the person exercised all reasonable diligence to prevent the commission of the offence.

Part VIII – Miscellaneous

57. No pay while on strike

Notwithstanding any other written law, an employee shall not be entitled to any wages, salary or allowance in respect of any day during which the person takes part or assists in a strike.

58. Regulations

The Minister may make regulations for carrying into effect the purposes and provisions of this Act and, without prejudice to the generality of the foregoing, may, by regulations—

- (a) provide for a code of practice for the purpose of promoting good industrial relations;
- (b) prescribe any form required to be prescribed under this Act;
- (c) provide for the records to be kept by a trade union;
- (d) provide for the contents of the accounts to be kept and the statement required to be prepared by a trade union;
- (e) the fees for the purposes of this Act;
- (f) amend the Schedule.

59. Rules of court

The Chief Justice may make rules of court for the purposes of this Act.

Schedule (Section 15(1))

Matters to be provided for in the constitution of a trade union

Part I – Constitution and management

1. The name of the trade union, and the address of its registered office.
2. The objects for which the trade union is established.
3. The election or appointment of the office bearers of the trade union and the manner in which they may be removed.
4. The powers and duties of each of the office bearers of the trade union.
5. The manner in which any branch of the trade union shall be formed; the management of the branch; and the convening and conduct of meetings for the transaction of the business of the branch.
6. The convening and conduct of meetings for the transaction of the business of the trade union.
7. The circumstances in which and the persons by whom instructions may be given to members of the trade union for any kind of industrial action including a strike or lock-out.
8. The conditions governing the eligibility of members for voting in any election or ballot.
9. The manner in which, for any purpose of the trade union, elections are to be held or ballots taken, including the procedure for the counting and scrutiny of votes and ballot papers and the procedure for the declaration or notification of the result of any election or ballot.

10. In the case of a federation of trade unions or a trade union of employers, the circumstances (if any) in which the federation or the trade union may negotiate and enter into agreements on behalf of its members.
11. The procedure to be followed for the alteration of the rules.
12. The circumstances and the manner in which the trade union may be dissolved.

Part II – Members of the trade union

13. The description of persons who are eligible for membership of the trade union, the procedure for dealing with applications for membership, including provision for appeals against decisions of the persons responsible for determining such applications.
14.
 - (a) The dues payable in respect of membership of the trade union (including any contributions payable in respect of admission or readmission), or the basis on which the amount of the dues is to be determined.
 - (b) The procedure and penalties in case of default in payment of dues.
15.
 - (a) The descriptions of conduct in respect of which disciplinary action (whether by way of suspension, expulsion or otherwise) can be taken by or on behalf of the trade union against any of its members.
 - (b) The nature of the disciplinary action which can be so taken in respect of each such description of conduct.
 - (c) The procedure for the taking of disciplinary action, including provision for appeals against decisions of the persons responsible for taking it.
16. The circumstances in which, and the procedure, other than expulsion by way of disciplinary action, by which membership of the trade union may be terminated.
17. The procedure for inquiring into any complaint of a member of the trade union that action contrary to the rules of the trade union has been taken by the trade union or by any person acting on its behalf.

Part III – Property and funds of the trade union

18. The investment of the funds of the trade union (or their deposit in a bank).
19. The purposes for which, and the manner in which, any property or funds of the trade union are authorised to be applied.
20. Where any financial benefits are to be available to members of the trade union out of its property or funds, the circumstances in which those benefits are to be available to members, and the amounts of those benefits.
21.
 - (a) The keeping of a register of members showing the names, addresses and payments made by the members.
 - (b) The keeping of proper accounting records, the preparation of accounts in accordance with this Act.
 - (c) The audit of the register of members and of the accounts at least once every 6 months.
 - (d) The rights of members of the trade union to inspect the accounting records and the register of members.
22. The amount of the security to be furnished by office bearers or other officers of the union whose office is connected with the collection, receipt and management of money on behalf of the trade union.
23. The distribution of the property and funds of the trade union in the event of its dissolution.