

Home > Acts > 1941 > Trade Union Act, 1941

Trade Union Act, 1941



Number 22 of 1941.

TRADE UNION ACT, 1941.

ARRANGEMENT OF SECTIONS

PART I.

Preliminary and General.

Section

1. Short title and collective citation.
2. Definitions.
3. Regulations.
4. Expenses.

PART II.

Licensing of Bodies Carrying on Negotiations for Fixing Wages or Other Conditions of Employment.

5. Definitions for purposes of Part II.
6. Restrictions on carrying on of negotiations for fixing of wages, etc.
7. Restrictions on grant and holding of negotiation licence.
8. Variation of Schedule to this Act.
9. Application for negotiation licence.
10. Grant of negotiation licence.
11. Restriction on application of certain enactments.
12. Obligations of holder of negotiation licence where holder is a registered trade union.
13. Obligations of holder of negotiation licence where holder is not a registered trade union.
14. General provisions in relation to deposits under this Part of this Act.
15. Change of deposit consequent on change of number of members.
16. Payment of judgment debts out of deposits.
17. Revocation of negotiation licence.

PART III.

Establishment and Functions of Trade Union Tribunal.

18. Commencement of Part III.
19. Definition for purposes of Part III.
20. Establishment of Trade Union Tribunal.
21. Chairman of the Tribunal.
22. Panels of persons eligible for appointment as ordinary members of the Tribunal.
23. Appointment of ordinary members of the Tribunal.
24. Composition of Tribunal during sittings.
25. Functions of Tribunal in relation to trade unions of masters.
26. Functions of Tribunal in relation to trade unions of workmen.
27. Ballots.
28. Restriction on applications to Tribunal.
29. Notice requiring review of determination of Tribunal.
30. Constitution of Appeal Board.
31. Functions of Appeal Board.
32. Functions of Tribunal where determination is referred back.
33. Revocation of determinations of the Tribunal.
34. Effect of determination of Tribunal.
35. Obligation to admit to membership of trade union.
36. Regulations for proceedings before Tribunal and Appeal Boards.
37. Attendance of witnesses, etc.
38. Fees.
39. Costs.
40. Staff of the Tribunal.

SCHEDULE.

Deposits.

Act Referred to

Emergency Powers Act, 1939

No. 28 of 1939



TRADE UNION ACT, 1941.

AN ACT TO PROVIDE FOR THE LICENSING OF BODIES CARRYING ON NEGOTIATIONS FOR FIXING WAGES OR OTHER CONDITIONS OF EMPLOYMENT, TO PROVIDE FOR THE ESTABLISHMENT OF A TRIBUNAL HAVING POWER TO RESTRICT THE RIGHTS OF ORGANISATION OF TRADE UNIONS, AND FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [23rd September, 1941.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I.

Preliminary and General.

Short title and collective citation.

1.—(1) This Act may be cited as the Trade Union Act, 1941.

(2) This Act and the Trade Union Acts, 1871 to 1935, may be cited together as the Trade Union Acts, 1871 to 1941.

Definitions.

2.—In this Act—

the expression “the Minister” means the Minister for Industry and Commerce, the word “prescribed” means prescribed by regulations made by the Minister under this Act.

Regulations.

3.—The Minister may make regulations in respect of any matter or thing referred to in this Act as prescribed or to be prescribed, but no such regulation shall be made in relation to any fee without the consent of the Minister for Finance.

Expenses.

4.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART II.

Licensing of Bodies Carrying on Negotiations for Fixing Wages or Other Conditions of Employment.

Definitions for purposes of Part II.

5.—(1) In this Part of this Act the expression “negotiation licence” means a licence issued by the Minister under this Part of this Act and authorising its holder to carry on negotiations for the fixing of wages or other conditions of employment.

(2) In this Part of this Act and the Schedule to this Act, the word “members”, where applicable in respect of a body not registered under the Trade Union Acts, 1871 to 1935, means members of such body resident within the State.

Restrictions on carrying on of negotiations for fixing of wages, etc. **6.**—(1) It shall not be lawful for any body of persons, not being an excepted body, to carry on negotiations for the fixing of wages or other conditions of employment unless such body is the holder of a negotiation licence.

(2) Where any body of persons acts in contravention of this section, the members of the committee of management or other controlling authority of such body and such of the officers of such body as consent to or facilitate such act shall each be guilty of an offence under this section and shall each be liable on summary conviction thereof to a fine not exceeding ten pounds, together with, in the case of a continuing offence, a further fine not exceeding one pound for every day during which the offence is continued.

(3) In this section the expression “excepted body” means any of the following bodies, that is to say:—

- (a) a body which carries on negotiations for the fixing of the wages or other conditions of employment of its own (but no other) employees,
- (b) a body which is registered under the next following sub-section of this section,
- (c) a civil service staff association recognised by the Minister for Finance,
- (d) an organisation of teachers recognised by the Minister for Education,
- (e) the Agricultural Wages Board,
- (f) a trade board established under the Trade Board Acts, 1909 and 1918, and
- (g) a body in respect of which an order under sub-section (6) of this section is for the time being in force.

(4) The Minister shall, for the purposes of this section, maintain a register and shall enter therein the name of any body which—

- (a) applies to the Minister for registration therein, and
- (b) accompanies its application by a fee of one pound, and
- (c) satisfies the Minister that—
 - (i) it consists of persons who are usually employed in a particular form of work and are usually employed by the same employer, and
 - (ii) it carries on negotiations for the fixing of wages or other conditions of employment with that employer only.

(5) All fees under the immediately preceding sub-section of this section shall be collected and taken in such manner as the Minister for Finance directs, and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the said Minister, and the Public Offices Fees Act, 1879, shall not apply in respect of any such fee.

(6) The Minister may by order declare that this section shall not apply in respect of any particular body of persons.

(7) The Minister may by order (which shall come into operation on a specified date not earlier than one month after it is made) revoke any order under the next preceding sub-section of this section.

(8) Nothing in this section shall render it unlawful for any person or group of persons to mediate in a trade dispute or to bring together the parties in a trade dispute with a view to reaching an amicable settlement.

(9) This section shall come into operation on such date not earlier than six months after the passing of this Act as the Minister by order appoints for that purpose.

Restrictions on grant and holding of negotiation licence.

7.—(1) No body of persons shall be granted or hold a negotiation licence unless it is a body (in this Act referred to as an authorised trade union) which fulfils the following conditions, that is to say:—

(a) that either it is registered under the Trade Union Acts, 1871 to 1935, or, if not so registered, it is a trade union under the law of another country and its headquarters control is situated in that country, and

(b) that it has deposited and, subject to the provisions of this Act, keeps deposited with the High Court the appropriate sum.

(2) In this section the expression “the appropriate sum” means the sum appropriate to the number of members of the relevant body in accordance with the Schedule to this Act.

Variation of Schedule to this Act.

8.—(1) Where—

(a) the Emergency Powers Act, 1939 (No. 28 of 1939) is in force, and

(b) the Minister is satisfied that, as regards any particular trade union registered under the Trade Union Acts, 1871 to 1935, it would, on account of abnormal conditions referable to the war in which the United Kingdom of Great Britain and Northern Ireland is now engaged, cause undue hardship if such trade union were compelled to make and keep with the High Court the full deposit specified by the next preceding section,

the Minister may by order declare that every sum of money mentioned in the Schedule to this Act shall, as regards such trade union, be deemed to be reduced to such extent not exceeding seventy-five per cent. as the Minister thinks proper.

(2) An order under sub-section (1) of this section shall have effect in accordance with its terms for the period specified in that behalf therein, save that no such order shall have effect after the expiration of twelve months after the Emergency Powers Act, 1939 (No. 28 of 1939), has ceased to be in force.

(3) The Minister may by order, made after six months' notice of the making thereof has been given to the trade union concerned, revoke any order previously made by him under sub-section (1) of this section.

Application for
negotiation licence.

9.—(1) Any authorised trade union may apply to the Minister for a negotiation licence.

(2) Every application for a negotiation licence shall be made in the prescribed form, shall contain the prescribed particulars, and shall be accompanied by the prescribed documents and by a fee of one pound.

(3) All fees under this section shall be collected and taken in such manner as the Minister for Finance directs, and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the said Minister.

(4) The Public Offices Fees Act, 1879, shall not apply in respect of any fee under this section.

Grant of negotiation
licence.

10.—Where application is duly made for a negotiation licence and the applicant is shown to the satisfaction of the Minister to be an authorised trade union, the Minister shall grant such licence.

Restriction on
application of certain
enactments.

11.—(1) Sections 2, 3 and 4 of the Trade Disputes Act, 1906, shall apply only in relation to authorised trade unions which for the time being are holders of negotiation licences and the members and officials of such trade unions, and not otherwise.

(2) This section shall come into operation on the same date as section 6 of this Act comes into operation.

Obligations of holder
of negotiation licence
where holder is a
registered trade union.

12.—(1) Whenever and so long as any authorised trade union registered under the Trade Union Acts, 1871 to 1935, is the holder of a negotiation licence, the following provisions shall have effect, that is to say:—

(a) such trade union shall include in its rules provisions specifying the conditions of entry into and cesser of membership of such trade union,

- (b) such trade union shall maintain at its office a register of its members (including former members other than those dead and those who have been non-members for more than five years or since before the grant of such negotiation licence) and such register shall, as regards each member, show—
- (i) his name and address,
 - (ii) the date of commencement of his membership,
 - (iii) where his membership has ceased, the date of the cesser and whether it was caused by resignation, suspension, expulsion, or otherwise, and
 - (iv) where his membership has ceased by suspension or expulsion, the date of the order directing and a reference to the rule or other provision authorising such suspension or expulsion,
- (c) such trade union shall, in accordance with regulations to be prescribed by the Minister, keep at its office such register of members open for inspection by any interested person who pays such fee, not exceeding five shillings in respect of each day (or part of a day) during which the inspection continues, as such trade union determines, and
- (d) a person who ceases, otherwise than by death, to be a member of such trade union shall, for the purposes of this Act, be deemed to continue to be a member thereof for one month after such cesser.

(2) If any authorised trade union in respect of which this section applies fails to comply with any requirement of this section, such trade union and such of the officers thereof as consent to or facilitate such failure shall each be guilty of an offence under this section and shall each be liable on summary conviction thereof to a fine not exceeding five pounds together with, in the case of a continuing offence, a further fine not exceeding one pound for every day during which the offence is continued.

(3) Any person may apply to the Minister for an authorisation in writing to inspect any register of members of a trade union kept in pursuance of this section and the Minister, if satisfied that the applicant has a *bona fide* interest in inspecting such register, shall issue to the applicant an authorisation such as aforesaid in respect of such period as the Minister thinks proper.

(4) In this section—

the word “office” means, in relation to a trade union, the office which for the time being is the registered office of such trade union for the purposes of the Trade Union Acts, 1871 to 1935;

the expression "interested person" means, in relation to a register of members of a trade union—

- (a) any person having an interest in the funds of such trade union, or
- (b) any officer of the Minister authorised by the Minister in writing to inspect such register, or
- (c) during the period in respect of which an authorisation under sub-section (3) of this section is issued in relation to such register, the person specified in the authorisation.

Obligations of holder of negotiation licence where holder is not a registered trade union. **13.**—(1) Whenever and so long as any authorised trade-union not registered under the Trade Union Acts, 1871 to 1935, is the holder of a negotiation licence, the following provisions shall have effect, that is to say:—

- (a) such trade union shall include in its rules or constitution provisions specifying the conditions of entry into and cesser of membership of such trade union by persons resident within the State,
- (b) such trade union shall have and maintain an office within the State for the purposes of this Act and shall give notice in writing to the Minister of the situation of such office and of every change thereof,
- (c) such trade union shall maintain at the said office a register of its members (including former members other than those dead and those who have been non-members for more than five years or since before the grant of such negotiation licence) and such register shall, as regards each such member, show—
 - (i) his name and address,
 - (ii) the date of commencement of his membership,
 - (iii) where his membership has ceased, the date of the cesser and whether it was caused by resignation, suspension, expulsion or otherwise, and
 - (iv) where his membership has ceased by suspension or expulsion, the date of the order directing and a reference to the rule or other provision authorising such suspension or expulsion,
- (d) such trade union shall, in accordance with regulations to be prescribed by the Minister, keep at the said office such register of members open for inspection by any interested person who pays such fee, not exceeding five shillings in respect of each day (or part of a day) during which the inspection continues, as such trade union determines,

- (e) such trade union shall from time to time as occasion requires give notice in writing to the Minister of the name of a person ordinarily resident in the State whom it considers suitable for accepting service of documents on its behalf and any document whatsoever (whether for the purposes of this Act or for any other purposes) may be served on such trade union by enclosing it in an envelope addressed to such person at the said office and by delivering such envelope at the said office or by sending it thereto by registered post, and such document shall thereupon be deemed for all purposes to have been properly served on such trade union,
- (f) such trade union shall give notice in writing to the Minister of every of the following changes not later than twenty-one days after the making thereof, that is to say:—
- (i) every change in its rules or constitution,
 - (ii) every change in its committee of management or other controlling authority,
 - (iii) every change in its trustees, and
 - (iv) every change of its secretary or other principal officer, and
- (g) a person who ceases, otherwise than by death, to be a member of such trade union shall, for the purposes of this Act, be deemed to continue to be a member thereof for one month after such cesser.

(2) If there is, in relation to any authorised trade union in respect of which this section applies, a failure to comply with any requirement of this section, such of the members and officers thereof as consent to or facilitate such failure shall each be guilty of an offence under this section and shall each be liable on summary conviction thereof to a fine not exceeding five pounds together with, in the case of a continuing offence, a further fine not exceeding one pound for every day during which the offence is continued.

(3) Any person may apply to the Minister for an authorisation in writing to inspect any register of members of a trade union kept in pursuance of this section and the Minister, if satisfied that the applicant has a *bona fide* interest in inspecting such register, shall issue to the applicant an authorisation such as aforesaid in respect of such period as the Minister thinks proper.

(4) In this section the expression “interested person” means, in relation to a register of members of a trade union—

- (a) any person having an interest in the funds of such trade union, or

- (b) any officer of the Minister authorised by the Minister in writing to inspect such register, or
- (c) during the period in respect of which an authorisation under sub-section (3) of this section is issued in relation to such register, the person specified in the authorisation.

General provisions in relation to deposits under this Part of this Act.

14.—The following provisions shall apply and have effect in relation to deposits made with the High Court in pursuance of this part of this Act, that is to say:—

- (a) every such deposit shall be made with the privity of the Accountant of the Courts of Justice and shall, when made, be under the control of the High Court;
- (b) any such deposit may, in lieu of being made wholly in money, be made wholly or partly by the deposit of securities authorised by Rules of Court for the investment of moneys under the control of the High Court;
- (c) where any such deposit is made wholly or partly in money, such money shall, at the request of the depositor, be invested in such securities so authorised as the depositor shall specify;
- (d) the income derived from the securities in which such deposit is for the time being invested shall be paid to the depositor;
- (e) the said securities or all or any of them shall, at the request and cost of the depositor, be varied into any other securities authorised as aforesaid and specified by the depositor;
- (f) the depositor may at any time apply for the return, in whole or in part, of the deposit or so much thereof as has not been paid out in pursuance of an order of the High Court under this Part of this Act;
- (g) where such application has been duly made, the deposit or so much thereof as has not been paid out as aforesaid shall be returned, in whole or in part, in accordance with such application upon or as soon as conveniently may be after the expiration of three months from the making of such application and, immediately after such return, the Minister shall be informed thereof;
- (h) the following matters shall be governed by Rules of Court and no order of the High Court shall be required in connection with any of them, that is to say, payment of income from the securities in which the deposit is invested, the variation of such securities, and the return of the deposit.

Change of deposit consequent on change of number of members. **15.**—(1) On or within one month after every third anniversary of the making by an authorised trade union of a deposit under this Part of this Act, such trade union shall send to the Minister a statement of the number of its members on such anniversary and, if it is necessary to increase or reduce such deposit by any amount in order to make it equal to the appropriate sum, such trade union shall, not later than four months after such anniversary, increase such deposit by such amount or apply for the return out of such deposit of such amount (as the case may require).

(2) If, in relation to any trade union required to send a statement under this section, there is a failure to send a statement or there is sent a wilfully false statement, such of the members and officers of the trade union as consent to or facilitate the failure to send a statement or the sending of the false statement and, in the case of a trade union registered under the Trade Union Acts, 1871 to 1935, the trade union itself shall each be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds.

(3) Save in pursuance of this section, a trade union shall not, on account of a change in the number of its members, change the amount of a deposit maintained under this Part of this Act.

(4) In this section the expression “the appropriate sum” used in relation to an authorised trade union which sends to the Minister a statement of the number of its members means the sum appropriate to that number of members in accordance with the Schedule to this Act.

Payment of judgment debts out of deposits. **16.**—(1) Whenever a Court makes an order, decree, or judgment for the payment of money by a trade union which is the holder of a negotiation licence to any person, the High Court may, on the application in a summary manner of such person, order such money (with or without the costs of such application) to be paid to such person out of the deposit maintained by such trade union under this Part of this Act.

(2) Whenever, in pursuance of an order made by the High Court under this section, any money is paid out of a deposit maintained under this Part of this Act, the Accountant of the Courts of Justice shall forthwith determine the value of the balance remaining of such deposit (securities being calculated at their current market value) and, if such balance falls short of the full proper amount of such deposit, he shall give to the trade union concerned notice in writing of such deficiency and of the amount thereof.

(3) If, when a notice of deficiency of deposit is given in pursuance of the next preceding sub-section of this section, the trade union concerned, not more than three months after receiving such notice, deposits with the High Court a sum equal to the amount of the deficiency stated in such notice, the sum so deposited shall be added to and treated as part of the said deposit and such trade union shall be deemed to have maintained such deposit at its full proper amount.

Revocation of negotiation licence. **17.**—The Minister may by order revoke any negotiation licence if he is satisfied that the holder thereof has ceased to be an authorised trade union.

PART III.

Establishment and Functions of Trade Union Tribunal.

Commencement of Part III. **18.**—This Part of this Act shall come into operation on such date, not earlier than six months after the date on which section 6 of this Act comes into operation, as the Minister by order appoints for that purpose.

Definition for purposes of Part III. **19.**—In this Part of this Act the expression “trade union” means a trade union which is the holder of a negotiation licence granted under Part II of this Act.

Establishment of Trade Union Tribunal. **20.**—The Minister may establish a tribunal to be known as the Trade Union Tribunal (in this Part of this Act referred to as the Tribunal) consisting of a chairman and four ordinary members to fulfil the functions assigned to it by this Part of this Act.

Chairman of the Tribunal. **21.**—(1) The chairman of the Tribunal shall be a practising barrister of at least ten years' standing or a practising solicitor of like standing or a person experienced in the operation of trade unions or in the settling of trade disputes and shall be appointed by the Minister for such period not exceeding five years as he thinks fit.

(2) The chairman of the Tribunal may at any time be removed from office by the Minister and may at any time resign his office.

(3) The chairman of the Tribunal shall be paid such fees or other remuneration as the Minister for Finance determines.

(4) If the chairman of the Tribunal is for any reason temporarily unable to attend the sittings of the Tribunal, the Minister may appoint another person, having the qualifications stated in sub-section (1) of this section to act temporarily as the chairman of the Tribunal during such inability.

Panels of persons eligible for appointment as ordinary members of the Tribunal. **22.**—(1) The Minister shall maintain two panels of persons eligible for appointment as ordinary members of the Tribunal, the one (in this Part of this Act referred to as the masters' panel) consisting of persons nominated by trade unions of masters and bodies representative, in the opinion of the Minister, of such trade unions or of industry, and the other (in this Part of this Act referred to as the workmen's panel) consisting of persons nominated by trade unions of workmen and bodies representative, in the opinion of the Minister, of such trade unions.

(2) Each body mentioned in sub-section (1) of this section shall have the right to nominate one person to the masters' panel or the workmen's panel (as may be appropriate).

Appointment of ordinary members of the Tribunal. **23.**—(1) Of the ordinary members of the Tribunal, two shall be persons appointed from the masters' panel and two shall be persons appointed from the workmen's panel.

(2) Every ordinary member of the Tribunal shall be appointed by the Minister for such period not exceeding five years as he thinks proper.

(3) Any ordinary member of the Tribunal may at any time be removed from office by the Minister and may at any time resign his office.

(4) Every ordinary member of the Tribunal shall be paid such fees or other remuneration as the Minister for Finance determines.

(5) If any ordinary member of the Tribunal is for any reason temporarily unable to attend the sittings of the Tribunal, the Minister may appoint another person from the same panel as that from which such member was appointed to act temporarily as a member of the Tribunal during such inability.

Composition of Tribunal during sittings. **24.**—(1) Three members of the Tribunal shall sit at every sitting thereof and such three members shall be—

(a) where the relevant application to the Tribunal was made by a trade union of masters—the chairman and the members appointed from the masters' panel, and

(b) where such application was made by a trade union of workmen—the chairman and the members appointed from the workmen's panel.

(2) Notwithstanding anything contained in the immediately preceding sub-section of this section, if any ordinary member of the Tribunal is, in the opinion of the Minister, directly interested in any of the trade unions concerned in an application to the Tribunal, such member shall not sit at the sitting of the Tribunal at which such application is heard and another person appointed by the Minister from the same panel as that from which such member was appointed shall sit at such sitting in the place of such member.

(3) At every sitting of the Tribunal, the Tribunal may, save as otherwise provided by this Act, act by a majority.

Functions of Tribunal in **25.**—(1) Subject to the provisions of this section, where application is made to the relation to trade unions Tribunal by a trade union which claims to have organised for the purpose of the carrying of masters.

on of negotiations for the fixing of wages and other conditions of employment a majority of masters of a particular class for a determination that such trade union alone shall have the right to so organise masters of that class, the Tribunal after hearing such application and having considered all the circumstances of the case, shall, as they consider proper in the public interest, either—

- (a) grant such determination, or
- (b) refuse to grant such determination, or
- (c) determine that two or more specified trade unions alone shall have the right to so organise masters of that class.

(2) The Tribunal shall not grant a determination under this section that a trade union registered under the law of another country and having its headquarters control in that country or two or more such trade unions shall alone have the right to organise masters of any particular class.

(3) When considering an application under this section, the Tribunal shall hear every person who wishes to be heard and appears to have an interest in such application and shall receive any evidence tendered by such person.

(4) For the purposes of this section masters may be classified by reference to a class to which they belong, by reference to an area in which they carry on trade, or by reference to such a class and such an area, and the word “class” shall be construed in this section accordingly.

Functions of Tribunal in relation to trade unions of workmen. **26.**—(1) Subject to the provisions of this section, where application is made to the Tribunal by a trade union which claims to have organised for the purpose of the carrying on of negotiations for the fixing of wages and other conditions of employment a majority of workmen of any particular class for a determination that such trade union alone shall have the right to so organise workmen of that class, the Tribunal, after hearing such application and having considered all the circumstances of the case, shall, as they consider proper in the public interest, either—

(a) grant such determination, or

(b) refuse to grant such determination, or

(c) determine that two or more specified trade unions alone shall have the right to so organise workmen of that class.

(2) The Tribunal shall not grant a determination under this section that a trade union registered under the law of another country and having its headquarters control in that country or two or more such trade unions shall alone have the right to organise workmen of any particular class.

(3) Before granting under this section a determination that a particular trade union shall alone have the right to organise workmen of a particular class, the Tribunal shall require such trade union to satisfy the Tribunal that the grant of such determination will not affect adversely any rights or claims to benefits enjoyed for the time being by any of such workmen as members of a trade union.

(4) Before granting under this section a determination that a particular trade union or unions shall alone have the right to organise workmen of a particular class, the Tribunal may, if it thinks proper, require such trade union or unions to satisfy the Tribunal that such trade union or unions will provide suitable employment or reasonable compensation for any officers of a trade union who will lose their employment in consequence of such determination.

(5) When considering an application under this section, the Tribunal shall hear every person who desires to be heard and appears to have an interest in such application and shall receive any evidence tendered by such person.

(6) No application shall be made to the Tribunal under this section by any civil service staff association.

(7) For the purposes of this section workmen may be classified by reference to a class to which they belong, by reference to an area in which they work, or by reference to such a class and such an area, and the word “class” shall be construed in this section accordingly.

Ballots.

27.—(1) Before making a determination under the immediately preceding section, the Tribunal may, for the purpose of obtaining the opinion in relation to such determination of the workmen whom the Tribunal considers are concerned therein, arrange for the holding of such ballot or ballots among such workmen or any class or classes of such workmen as the Tribunal considers proper.

(2) Where a ballot under this section is a ballot among members of a particular trade union, the Tribunal may require such trade union to carry out such ballot in accordance with the directions of the Tribunal and to report the result of such ballot to the Tribunal.

(3) If any trade union fails to comply with any requirement of the Tribunal under this section, such trade union shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds.

Restriction on applications to Tribunal.

28.—(1) Where a determination is granted under this Part of this Act that two or more trade unions alone shall have the right to organise masters or workmen of any particular class, no application shall subsequently be made by any of such trade unions to the Tribunal in relation to masters or workmen of that class until at least five years after the grant of such determination.

(2) Where a determination is granted under this Part of this Act that one trade union alone or two or more trade unions alone shall have the right to organise masters or workmen of any particular class, no application shall subsequently be made by any other trade union to the Tribunal in relation to masters or workmen of that class until at least five years after the grant of such determination or, where during the said five years such determination becomes revoked, until after such revocation.

Notice requiring review of determination of Tribunal.

29.—Any trade union aggrieved by a determination of the Tribunal may, within one month after the grant thereof, give notice in writing to the Minister that they require such determination to be reviewed, but the giving of such notice shall not affect the operation of such determination.

Constitution of Appeal Board.

30.—(1) Whenever the Minister receives a notice under the next preceding section in relation to any determination of the Tribunal, the Minister shall constitute a Board (in this Part of this Act referred to as an Appeal Board) to review such determination and shall submit such determination to such Board for review.

(2) Every Appeal Board shall consist of—

(a) a chairman who shall be a Judge of the High Court or Circuit Court nominated by the President of the High Court, and

(b) two ordinary members nominated by the Minister—

(i) in case the relevant determination relates to one or more trade unions of masters, from the masters' panel, and

(ii) in case it relates to one or more trade unions of workmen, from the workmen's panel.

(3) A person nominated under paragraph (b) of the next preceding sub-section of this section—

(a) shall not be a person who was a member of the Tribunal when the determination to be reviewed was given, and

(b) shall be a person who, in the opinion of the Minister, is not directly interested in any of the trade unions concerned in such determination.

(4) Each ordinary member of an Appeal Board shall be paid such fees or other remuneration as the Minister for Finance determines.

Functions of Appeal Board.

31.—Where a determination of the Tribunal is submitted to an Appeal Board for review the Appeal Board shall hear every person who desires to be heard and appears to have an interest in such determination and shall receive any evidence tendered by such person, and the following provisions shall thereupon have effect, that is to say:—

(a) if the Appeal Board, having considered all the circumstances of the case, are unanimously of opinion—

(i) that such determination is not in the public interest, or

(ii) that, in case such determination relates to one or more trade unions of workmen, the Tribunal, when making such determination, did not adequately safeguard the rights and claims to benefits enjoyed by any workmen and adversely affected by such determination or the position of officers of trade unions so adversely affected, or

(iii) that the tribunal did not make such determination in a sufficiently precise form,

the Board shall, upon grounds stated by it, refer such determination back to the Tribunal for reconsideration,

(b) in any other case, the Appeal Board shall decline to interfere with such determination.

Functions of Tribunal where determination is referred back.

32.—(1) Where a determination is referred back under the immediately preceding section to the Tribunal for reconsideration, the following provisions shall have effect, that is to say:—

(a) if the Tribunal is unanimously of opinion that no change in such determination is necessary, the Tribunal shall decline to interfere with such determination,

(b) in any other case, the chairman of the Tribunal shall either (as may be appropriate having regard to the views of the Appeal Board) revoke such determination without giving a new determination or make a new determination embodying the views of the Appeal Board.

(2) Where the chairman, under paragraph (b) of the foregoing sub-section, makes a determination, such determination shall be deemed to be a determination of the Tribunal and shall be final and not open to review.

Revocation of
determinations of the
Tribunal.

33.—(1) Where a determination is granted under this Part of this Act in relation to masters or workmen of any particular class and immediately before the grant thereof a previous determination under this Part of this Act in relation to masters or workmen of that class is in force, the first mentioned determination shall operate to revoke such previous determination.

(2) Where a determination is granted under this Part of this Act that one trade union alone shall have the right to organise masters or workmen of any particular class and subsequently the negotiation licence granted to such trade union under Part II of this Act becomes revoked, such revocation shall also operate to revoke such determination.

(3) Where a determination is granted under this Part of this Act that two or more trade unions alone shall have the right to organise masters or workmen of any particular class and subsequently both or all of the negotiation licences granted to such trade unions under Part II of this Act become revoked, the second or lastly occurring of such revocations shall also operate to revoke such determination.

(4) Whenever a negotiation licence to which sub-section (2) or sub-section (3) of this section applies is revoked the Minister shall take such steps as he considers adequate by the publication of notices in the public press or otherwise to make known to persons likely to be affected by such revocation that the said negotiation licence has been revoked.

Effect of determination
of Tribunal.

34.—(1) Where a determination is granted under this Part of this Act that one trade union alone shall have the right to organise masters of any particular class, no other trade union shall thereafter, so long as such determination remains unrevoked, accept as a new member any master of that class.

(2) Where a determination is granted under this Part of this Act that two or more trade unions alone shall have the right to organise masters of any particular class, no other trade union shall thereafter, so long as such determination remains unrevoked, accept as a new member any master of that class.

(3) Where a determination is granted under this Part of this Act that one trade union alone shall have the right to organise workmen of any particular class, no other trade union shall thereafter, so long as such determination remains unrevoked, accept as a new member any workman of that class.

(4) Where a determination is granted under this Part of this Act that two or more trade unions alone shall have the right to organise workmen of any particular class, no other trade union shall thereafter, so long as such determination remains unrevoked, accept as a new member any workman of that class.

(5) Notwithstanding anything contained in this section, no determination under this Part of this Act shall—

(a) extend to or apply in respect of any civil service staff association, or

(b) operate to prevent any organisation of teachers recognised by the Minister for Education from accepting any teacher as a new member of such organisation, or

(c) operate to prevent any trade union which does not carry on negotiations for fixing wages or other conditions of employment from accepting any person as a new member.

(6) If, in relation to any trade union, there is a contravention of any sub-section of this section, such of the members and officers of such trade union as consent to or facilitate such contravention and, in the case of a trade union registered under the Trade Union Acts, 1871 to 1935, the trade union itself shall each be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds.

Obligation to admit to membership of trade union.

35.—(1) Where—

(a) a determination is granted under this Part of this Act that one trade union alone shall have the right to organise masters or workmen of any particular class, and

(b) while such determination remains unrevoked, a person claiming to be a master or workman of that class duly applies to be admitted as a member of such trade union and undertakes to comply with its rules,

such trade union shall either—

(i) if satisfied that it is undesirable to admit such person as a member of such trade union on account of his bad character or on account of his previous expulsion from such trade union for a gross breach or continuous breaches of its rules, by order (in this section referred to as a refusal order) refuse to accept such person as a member, or

(ii) in any other case, accept such person as a member.

(2) Every refusal order shall state the grounds upon which it is based.

(3) The person to whom a refusal order relates may appeal to the Justice of the District Court having jurisdiction in the place where such person ordinarily resides for an annulment of such refusal order and such justice may, as he thinks proper, grant or refuse to grant such annulment.

(4) In an application to the District Court for the annulment of a refusal, order, no ground other than a ground stated in such order shall be advanced in opposition to such application.

(5) Where a refusal order is annulled under this section, the trade union concerned shall accept as a member the person to whom such refusal order related.

(6) Where a trade union—

(a) in a case to which sub-section (1) of this section applies, fails to either make a refusal order or accept the relevant applicant for membership as a member, or

(b) when required by virtue of sub-section (5) of this section to accept as a member any person, fails so to do,

such of the members and officers of such trade union as consent to or facilitate such failure and, in the case of a trade union registered under the Trade Union Acts, 1871 to 1935, the trade union itself shall each be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds.

Regulations for
proceedings before
Tribunal and Appeal
Boards.

36.—(1) The Minister may make regulations in relation to all or any of the following matters, that is to say:—

(a) the times and places of the sittings of the Tribunal and of Appeal Boards;

(b) the persons to whom and the times and manner in which notice of the sittings of the Tribunal and of Appeal Boards shall be given;

(c) the admission or exclusion of the public to or from sittings of the Tribunal and of Appeal Boards;

(d) such other matters in relation to the practice and procedure of the Tribunal and of Appeal Boards as the Minister may consider necessary or expedient for the proper conduct of the business of the Tribunal and of Appeal Boards;

(e) the fees payable under section 38 of this Act.

(2) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling such regulation is passed by either such House within the next twenty-one days on which such House has sat after such regulation is laid before it, such regulation shall be annulled accordingly but without prejudice to anything previously done thereunder.

Attendance of witnesses, etc.

37.—(1) The Tribunal and an Appeal Board shall have all such powers, rights, and privileges for enforcing the attendance of witnesses and examining them on oath (which any member of the Tribunal or an Appeal Board is hereby authorised to administer) or otherwise and for compelling the production of documents as are vested in the High Court or a judge thereof in respect of the trial of an action, and a summons signed by the chairman of the Tribunal or of an Appeal Board shall be equivalent to and have the like effect as a formal process issued by the High Court for enforcing the attendance of witnesses or compelling the production of documents, as the case may be.

(2) If any person—

(a) on being duly summoned as a witness before the Tribunal or an Appeal Board makes default in attending, or

(b) being in attendance as a witness refuses to take an oath legally required by the Tribunal or an Appeal Board to be taken, or to produce any document in his power or control legally required by the Tribunal or an Appeal Board to be produced by him, or to answer any question to which the Tribunal or an Appeal Board may legally require an answer, or

(c) does any thing which would, if the Tribunal or an Appeal Board were a Court of Justice having power to commit for contempt of Court, be contempt of such Court,

the Tribunal or such Appeal Board may certify the offence of that person under their hands to the High Court and that Court may, after such inquiry as it thinks proper to make, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the said Court.

(3) A witness before the Tribunal or an Appeal Board shall be entitled to the same immunities and privileges as if he were a witness before the High Court.

Fees. **38.**—(1) A trade union making an application to the Tribunal under this Part of this Act shall, as a condition precedent to the entertainment of such application, pay to the Tribunal the prescribed fee.

(2) A trade union giving to the Minister a notice requiring a determination under this Part of this Act to be reviewed shall, as a condition precedent to the acceptance of such notice, pay to the Minister the prescribed fee.

(3) All fees under this section shall be collected and taken in such manner as the Minister for Finance directs, and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the said Minister.

(4) The Public Offices Fees Act, 1879, shall not apply in respect of any fee under this section.

Costs. **39.**—(1) The costs in relation to sittings of the Tribunal of the parties appearing at such sittings shall be in the discretion of the Tribunal and the Tribunal may direct to and by whom and in what manner those costs or any part thereof shall be paid.

(2) The costs in relation to sittings of an Appeal Board of the parties appearing at such sittings shall be in the discretion of such Board and such Board may direct to and by whom and in what manner those costs or any part thereof shall be paid.

(3) Where the Tribunal or an Appeal Board awards any costs under this section, the Tribunal or such Appeal Board (as the case may be) may themselves tax the amount of the costs or may direct in what manner they are to be taxed.

(4) Costs awarded under this section shall, in default of payment, be recoverable as a simple contract debt in any court of competent jurisdiction.

Staff of the Tribunal. **40.**—(1) The Minister may, with the consent of the Minister for Finance, appoint such officers and servants of the Tribunal and Appeal Boards as he may consider necessary for assisting the Tribunal and Appeal Boards in the performance of their functions.

(2) The officers and servants of the Tribunal and Appeal Boards shall hold office upon such terms and be remunerated at such rate and in such manner as the Minister for Finance shall sanction.

SCHEDULE.

Deposits.

1. Where the number of members does not exceed 500 the deposit shall be £1,000.

2. Where the number of members exceeds 500 but does not exceed 2,000, the deposit shall be £1,000 together with £200 for each additional 300 members (or part of 300 members) in excess of 500 members.

3. Where the number of members exceeds 2,000 but does not exceed 5,000, the deposit shall be £2,000 together with £200 for each additional 300 members (or part of 300 members) in excess of 2,000 members.

4. Where the number of members exceeds 5,000 but does not exceed 10,000, the deposit shall be £4,000 together with £200 for each additional 500 members (or part of 500 members) in excess of 5,000 members.

5. Where the number of members exceeds 10,000 but does not exceed 20,000, the deposit shall be £6,000 together with £200 for each additional 1,000 members (or part of 1,000 members) in excess of 10,000 members.

6. Where the number of members exceeds 20,000 the deposit shall be £8,000 together with £200 for each additional 1,000 members (or part of 1,000 members) in excess of 20,000 members, but subject to an overriding maximum of £10,000.