

THE UNITED REPUBLIC OF TANZANIA



No. 3 OF 1990

I ASSENT,

A handwritten signature in black ink, appearing to read 'Mwasa'.

President

26th March 1990

An Act to amend the Permanent Labour Tribunal Act, 1967

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Permanent Labour Tribunal (Amendment) Act, 1990, and shall be read as one with the Permanent Labour Tribunal Act, 1967, referred to in this Act as "the principal Act"

2. Section 1 of the principal Act is hereby amended by deleting the words "Permanent Labour Tribunal" and substituting for it the words "Industrial Court of Tanzania"

3. Section 3 of the principal Act is hereby amended-

(a) by deleting the definition "chairman" and substituting for it the following definition:

"Chairman" means the Judge of the High Court appointed to be the Chairman of the Court;";

(b) by deleting the definition "Tribunal" and substituting for it the following definition:

"the Court" means the Industrial Court of Tanzania established by section 15;"

4. The principal Act is hereby generally amended in all its provisions by deleting the word "Tribunal" where it occurs and substituting for it the word "Court".

5. Section 4 of the principal Act is hereby amended-

(a) by deleting subsection (1) and substituting for it the following subsections:

Short title

Amendment of title of principal Act

Amendment of section 3

General amendment

Amend-
ment of
section 4

"(1) Subject to the other provisions of this section, any trade dispute, whether existing or apprehended may, if not otherwise determined, be reported to the Labour Commissioner by notice in writing given either by or on behalf of the employer or on behalf of the employees, as the case may be, by the general secretary of a registered trade union of which the employees are members.

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(1A) Notwithstanding subsection (1), an employee who-

- (a) is not an employee within the meaning assigned to that term by the, Security of Employment Act, 1964; or
- (b) is not a member of a registered trade union, or
- (c) though a member of the registered trade union, is not supported by the field branch in the dispute with his employee,

shall be entitled to institute before the Court a trade dispute between him and his employer, either in person or by advocate. ;

- (b) by adding immediately after sub-section (5), the following sub-sections:

"(5) Any trade dispute which is instituted in accordance with the provisions of this section shall not be brought before any Conciliation Tribunal. Every trade dispute shall first be reported to the field branch at the place of work within thirty days of its occurrence; but where there is no field branch the complainant shall report the trade dispute to the local District Secretary of the registered trade union or, if he is not a member of the trade union, to the local District Labour Officer, and on person may report a trade dispute to the Labour Commissioner unless this subsection is first complied with."

Amend-
ment of
section
9A

6. Section 9A of the principal Act is hereby amended by deleting subsection (1) and substituting for it the following:

"(1) Subject to subsection (2), where any trade dispute exists or is apprehended, the Labour Commissioner may inquire into the causes and circumstances of the trade dispute and, with the approval of the Minister refer any matters appearing to him to be connected or relevant to that trade dispute to the Court whether or not the matter or dispute is a trade dispute within the meaning assigned to that expression by section 3, and the Tribunal shall inquire into the matters so referred to it and report on them to the Minister."

7. The whole of Part IV of the principal Act is hereby repealed and replaced by the following:

Repeal and replacement of Part IV

"PART IV

E INDUSTRIAL COURT OF TANZANIA

15--(1) There is hereby established an industrial court to be known as the Industrial Court of Tanzania which shall, subject to this Act, have jurisdiction in respect of matters specified in subsection (2).

Establishment and jurisdiction of the Court

(2) The Court shall have jurisdiction-

- (a) to hear and determine any trade dispute referred to it under the provisions of this Act;
- (b) to register negotiated agreements and voluntary agreements, and to hear and determine matters relating to the registration of such agreements;
- (c) to inquire into any matter referred to it under this Act and to report to the Minister on such matters;
- (d) to advise the Labour Commissioner on any matter referred to it by him under section 10; and
- (e) to exercise such other functions and powers as are conferred upon it by this Act or as may be conferred upon it by any written law.

16.-(1) The Court shall consist of-

- (a) the Chairman of the Court, who shall be appointed by the President, upon advice by the Minister and after consultation with the Chief Justice, from amongst the Judges of the High Court; and
- (b) such number of Deputy Chairmen as the President may approve, each of whom shall be appointed by the President.

Constitution of the court

(2) Subject to this Act, the Chairman and each Deputy Chairman shall each, unless he sooner dies, resigns, vacates office or is removed from office by the President, hold office for a term of three years and shall be eligible for reappointment.

(3) A Deputy Chairman shall, in addition to exercising the jurisdiction of the Court pursuant to this Act, exercise such functions as the Chairman may direct.

17.-(1) The Court may establish such zonal centres of the Court as it may determine, and each such zonal centre shall discharge such of the functions of the Court as may, from time to time, be determined by the Court.

Zonal centres of the court

Registrar
and other
staff of the
court

18.-(1) There shall be a Registrar of the Court who shall be appointed by the Minister upon advice by the Chairman, and he shall be the chief executive officer of the court answerable to the Chairman, subject to this Act and to any other written law in that behalf providing.

(2) There shall be such other staff of the Court in such number and holding such offices as the Court may determine as being necessary or desirable to assist the Registrar in the proper and effective discharge of the business and affairs of the Court.

(3) The office of Registrar and those of the other staff of the Court shall be offices in the service of the United Republic.

Sittings of
the court

19.-41) The Court may sit on such occasions and at such places as the business of the Court may demand or as the Chairman may from time to time determine.

(2) For the purposes of holding proceedings in-exercise of the functions of the Court under this Act, the Court shall be properly constituted if presided over by the Chairman or a Deputy Chairman sitting with two assessors selected by the Chairman or, as the case may be, the Deputy Chairman from a list of assessors appointed by the Minister pursuant to section 20.

(3) Notwithstanding subsection (2), if in the course of any proceedings before the Court one or both of the assessors who were present at the commencement of the proceedings is or are for any reason absent, the Chairman, or the Deputy Chairman, and the remaining assessor, if any, may continue and conclude the proceedings notwithstanding the absence -

(4) At the conclusion of the proceedings before the Court, the Chairman or the Deputy Chairman shall seek and record the opinion of the assessors present at such conclusion.

(5) The Chairman or the Deputy Chairman, as the case may, be shall not be bound by the opinions of the assessors but if he disagrees with the opinion of any of them he shall record the opinion of that assessor and the reasons for his disagreement.

(6) No proceedings shall be invalid by reason only of an irregularity in the selection of any assessor.

selection
of Asses-
sors and
Official
members

20.-(1) The Minister shall, in respect of the Court and every zonal centre of the Court, appoint a panel consisting of fifteen persons from amongst the names of persons recommended to-him by the Union, the Federation of Tanganyika Employers or any other body of persons which in the opinion of the Minister represents the interests of employers, or from amongst members of the Union or of the Federation or such other body.

(2) The panel of assessors appointed by the Minister in respect of the Court and every zonal centre of the Court shall be reviewed by him after twelve months and either new persons be appointed or the persons already appointed be reappointed or appoint some new persons and reappoint some of the incumbent assessors.

(3) For the purposes of constituting the Court in respect of proceedings in relation to any dispute or matter, the Chairman or, as the case may be, the Deputy Chairman concerned shall select two persons from the panel appointed in respect of the Court centre concerned to sit with him as assessors for the purposes of those proceedings.

(4) Notwithstanding the preceding provisions of this and of section 19, the President may, by order published in the *Gazette*, appoint such number of members of the Tribunal as he may deem fit and may, by the same or subsequent order published in the *Gazette*, direct that the jurisdiction of the Court shall, for the purposes of determining such matters or such category of matters as may be specified in the order, be exercised by the Chairman or Deputy Chairman sitting with two of such members, to be known as official members, in addition to the assessors selected by the Court in pursuance of the provisions of subsection (3) and those of section 19(2).

(5) Where the President makes an order under subsection (4), the Chairman or the Deputy Chairman, as the case may be, shall, in proceedings relating to the matter to which the order relates, sit with any of two of the official members appointed by the President in addition to the assessors; and every such proceedings shall be determined in accordance with the opinion of the majority of all members of the Court including the Chairman or the Deputy chairman.

21.-41) The Chairman and every Deputy Chairman shall each be appointed on such terms as the President determines or as may be specified in the instrument of his appointment.

(2) The staff of the Court shall be appointed on such terms and conditions as are applicable to other persons serving in the public service of the United Republic in corresponding offices.

(3) The assessors and official members sitting with the Chairman or the Deputy Chairman in any proceedings of the Court shall be paid a sitting allowance of such amount as may be determined by the Minister from time to time, taking into account the prevailing economic and other circumstances. "

8. Section 27 of the principal Act is hereby amended-

(a) by deleting the marginal note to that section and substituting for it the following:

"Powers of revision and finality
of decision and awards of the
Court "

(b) by deleting subsection (1) and substituting for it the following subsections:

"(1) The Court shall have power, in any proceeding determined before it, on application being made in that behalf by any party or of its own motion, if it appears that there has been an error material to the merits of the dispute involving injustice, revise the proceedings and make such decision or award in the matter as it sees fit; save that no decision or award shall be made by the Court in exercise of its jurisdiction under this sub-section, increasing the liability of any party or altering the rights of any party to his detriment, unless such party shall have first been given an opportunity of being heard.

(1A) The Court shall, when exercising jurisdiction under subsection (1) be properly constituted if it is presided over by the Chairman sitting with, two Deputy Chairmen and two assessors, all different from those who sat on the Court when it first heard the dispute.

(1B) The Chief Justice shall, after consultation with the Chairman, make rules to be published in the *Gazette*, which shall be complied with by all persons in dealing with revisions of the decisions and awards of the Court.

(1C) Subject to the provisions of this section, every award and decision of the Court shall be final and not liable to be challenged, reviewed, questioned or called in question in any court save on the grounds of lack of jurisdiction in which case the matter shall be heard and determined by a full bench of the High Court.

(c) by deleting subsection (3) and substituting for it the following:

"(3) Except for instance where the Court exercises its revisional jurisdiction in respect of an award or decision, no application to vary any award in any other manner shall, except with the permission in writing of the Minister, be made within twelve months of the date on which the award takes effect, and no trade dispute in connection with the terms of any award shall, within that period, be reported to the Labour Commissioner under section 4; and, for the avoidance of doubt, every award shall be binding on the employers and employees to whom it relates and may be enforced by the Court itself exercising the powers conferred by the provisions of Order XXI of the Civil Procedure Code, 1966, or in any other civil court of competent jurisdiction as if it were a decree of that court, notwithstanding that it has not yet been published in the *Gazette*, or that any of the parties has a right or is intending to bring an action in any court on the grounds referred to in subsection (1), (1B) or (1C) of this section."

9. Section 30 of the principal Act is hereby repealed and replaced by the following:

Repeal and re-
placement
of section
30

"Right of
parties to
assistance
by advo-
cate and
appear-
ance by
parties

30.-41) Any person appearing before the Court in any Proceeding under this Act may of right appear or be assisted by an advocate of the High Court, subject always to the Provisions of any rules of court made by the High Court under Powers conferred by Article 26 of the Tanganyika Order in Council, 1920, as from time to time in force.

(2) If at the time appointed for hearing of a trade dispute or matter by the Court and any of the parties refuses or fails to appear, the Court-

(11) if the Party absent is the complainant and is so absent for reasons which appear to the Court to be unreasonable or not good, shall dismiss the application or dispute, as the case may be, or

(b) if the Party absent is the person representing the employer or management, may proceed to hear and determine the dispute or matter ex-parte"

10. The principal Act is hereby amended by inserting, immediately after section 30, the following new section:

Insertion
of section
30A

" Protec-
tion of
members
of the
Court

30A-U) Save as is expressly provided by this Act, no act or thing done or omitted to be done by a member of the Court shall, if the act or omission was done or omitted *bona fide* in the exercise of his functions under this Act, render such member of the Court criminally liable for that act or Omission, nor shall any civil liability attach to any member of the Court as a result of the act or omission.

(2) For the Purposes of this section, the expression "member of the Court" means the Chairman, a Deputy Chair-
mall, an assessor or an official member exercising, functions under this Act."

11. The Principal Act is hereby amended by inserting, immediately after section 40A, the following sections:

Insertion
of new section
40B,40C

"con-
tempts of
the court

40B-(1) Any Person who--

- (a) wilfully disobeys any lawful order, process or require-
ment issued by the Court;
- (b) publishes any Proceedings or report of the Court or
any part of it contrary to an order of the Court pro-
hibiting Publication;
- (c) within the Premises in which any Proceeding of the
Court is being held or taken, Or within the Precincts
Of those Premises, shows disrespect, in speech or man-
ner, to or with reference to that Proceeding;

- (d) discloses or publishes a report of the evidence taken or deliberations of the Court held in *camera* or directed to be withheld from publication;
 - (e) within the premises in which any proceeding of the Court is being held or taken, and in the face of the Court, conducts himself, in speech or manner, so as to belikely to threaten any witness or to disrupt the proceedings of the Court;
 - (f) with a view to preventing the giving of evidence or production of any thing before the Court, does any act intended or likely to intimidate a person summoned from giving the evidence or producing the thing;
 - (g) with a view to punish or victimize a person, does any act to him after that person has given evidence or produced any thing before the Court, which injures or is likely to injure that person or his property;
 - (h) publishes anything in any manner which scandalizes or is intended or likely to scandalize the Court;
 - (i) wilfully publishes or does any thing which is intended or tends to prejudice the fair hearing and determination of any trade dispute or matter before the Court,
- is guilty of contempt of the Court and shall be liable on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand shillings.

(2) Save as is provided in section 40C, all offences of contempt against the Court shall be triable by the district court.

Summary
procedure
for con-
tempt of
the Court

40C.-(I) When any offence under section 40B is committed in the face of the Court, the Court may cause the offender to be detained in custody, and at any time before the rising of the Court on the same day may take cognisance of the offence and sentence the offender to a fine not exceeding one thousand shillings or, in default of payment, to imprisonment for one month.

(2) Without prejudice to section 40B, the Court shall have power to punish by fine or imprisonment such contempt of its authority as-

- (a) misbehavior of any kind by any person in its face or so near to it as to obstruct the administration of justice;
- (b) misbehavior of any of the staff of the Court in their official transactions;
- (c) disobedience or resistance to its lawful authority."

Passed in the National Assembly on the 25th day of January, 1990.

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Clerk of the National Assembly

