



JAMAICA

No. 13—2002

I assent,

[L.S.]

H. F. COOKE,  
*Governor-General.*

28th day of March, 2002.

AN ACT to Amend the Labour Relations and Industrial  
Disputes Act.

[ 28th March, 2002 ]

BE IT ENACTED by The Queen's Most Excellent Majesty,  
by and with the advice and consent of the Senate and House  
of Representatives of Jamaica, and by the authority of the  
same, as follows:—

1. This Act may be cited as the Labour Relations and Industrial Disputes (Amendment) Act, 2002 and shall be read and construed as one with the Labour Relations and Industrial Disputes Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title  
and con-  
struction.

Amendment  
of section 2  
of princi-  
pal Act.

2. Section 2 of the principal Act is amended—

- (a) in the definition of “industrial dispute” by inserting next after paragraph (d) the following as paragraph (e)—

“(e) any matter relating to bargaining rights on behalf of any worker;”;

- (b) delete the definition of “worker” and substitute therefor the following—

“ “worker” means an individual who has entered into or works or normally works (or where the employment has ceased, worked) under a contract, however described, in circumstances where that individual works under the direction, supervision and control of the employer regarding hours of work, nature of work, management of discipline and such other conditions as are similar to those which apply to an employee.”.

Amendment  
of section 4  
of princi-  
pal Act.

3. Section 4 of the principal Act is amended—

- (a) in subsection (1)—

(i) by deleting the fullstop at the end of paragraph (b) and substituting therefor a semicolon; and

(ii) by inserting next after paragraph (b) the following as paragraph (c)—

“ (c) not to be a member of a trade union.”.

- (b) in subsection (2) by deleting the words “two thousand” and substituting therefor the words “five hundred thousand”.

4. The principal Act is amended by inserting next after section 4 the following as section 4A—

Insertion of  
new section  
4A of principal  
Act.

“Employer  
may recognize  
trade union without  
ballot being taken.”

4A. Where the majority of the workers or a particular category of workers, in the employment of an employer, agree among themselves for a trade union to have bargaining rights in relation to them, the employer may recognize that trade union as having bargaining rights in relation to those workers without a ballot being taken for the purpose of determining the matter.”.

5. Section 5 of the principal Act is amended—

Amendment  
of section  
5 of principal  
Act.

(a) in subsection (1) by deleting the words “, may cause” and substituting therefor the words “shall cause”;

(b) by inserting next after subsection (3) the following as subsection (3A)—

“ (3A) Where under subsection (3) the Minister refers a dispute to the Tribunal, it shall be lawful for the Tribunal, in determining the dispute, to determine the bargaining unit in which the workers concerned may, for the time being, be included.”;

(c) in subsection (7) by deleting the words “one thousand” and substituting therefor the words “two hundred and fifty thousand”;

(d) in subsection (8)—

(i) by deleting the words “two thousand” and substituting therefor the words “five hundred thousand”; and

(ii) by deleting the word “fifty” and substituting therefor the words “ten thousand”;

(e) by inserting next after subsection (9) the following as subsection (10)—

“ (10) Where, whether before or after the 8th April, 1975, bargaining rights were granted, with or without the taking of a ballot, to a trade union in respect of workers or a particular category of workers in the employment of any employer and those rights were in existence immediately before the date of the coming into operation of the Labour Relations and Industrial disputes (Amendment) Act, 2002, those rights shall continue to be exercised by that trade union after that date.”.

Insertion of  
new sections  
5A and 5B  
in principal  
Act.

6. The principal Act is amended by inserting next after section 5 the following as sections 5A and 5B—

“Bargain-  
ing in  
good faith.

5A.—(1) Where pursuant to section 5 (5) or (6), a trade union is recognized as having bargaining rights in relation to workers or a category of workers, the trade union shall give to the employer, within fifteen days of being so recognized or such longer period as the trade union and the employer may agree, a notice in writing stating that the trade union is desirous of making a collective agreement with the employer.

(2) Where a claim is served by one party on the other in relation to wages and fringe benefits or other conditions of service, both parties shall, within thirty days of the date of service of the notice, conduct negotiations in good faith and make every reasonable effort to conclude a collective agreement.”.

Notice of  
industrial  
action.  
Fifth  
Schedule.

5B.—(1) Where industrial action is contemplated to be taken in any of the services specified in the Fifth Schedule, notice in

writing of such industrial action shall be given to the Minister and the employer by any party to the dispute or by any person acting on behalf of such party not less than seventy-two hours before the commencement of such industrial action

(2) Where no notice is given pursuant to subsection (1) or notice is not given within the period specified in that subsection, the industrial action taken shall be deemed to be unlawful.”.

7. Subsection (4) of section 8 of the principal Act is amended—

Amendment of section 8 of principal Act.

- (a) by inserting immediately after the word “incapacitated” the words “or ceases to be a member thereof for any other reason”;
- (b) by inserting immediately after the word “incapacity” the words “or cessation”.

8. Section 9 of the principal Act is amended by inserting next after subsection (4) the following as subsection (4A)—

Amendment of section 9 of principal Act.

“ (4A) Where the Minister is satisfied that an industrial dispute exists in an undertaking which provides an essential service but no report thereof has been made to the Minister pursuant to subsection (1), the Minister may take such action under paragraph (a) or (b) of subsection (3) as he thinks fit; and where he takes action under paragraph (b), subsection (4) shall apply in relation thereto.”.

9. The principal Act is amended by inserting next after section 11A the following as section 11B—

Insertion of new section 11B in principal Act.

“Reference of dispute of disciplinary nature by Minister to the Tribunal.

11B. Notwithstanding the provisions of sections 9, 10, 11 and 11A, where an industrial dispute exists in any undertaking which relates to disciplinary action taken against a

worker, the Minister shall not refer that dispute to the Tribunal unless, within two months of the date on which the disciplinary action became effective, the worker lodges a complaint against such action with the Minister.”.

Amendment  
of section 12  
of principal  
Act.

**10. Section 12 of the principal Act is amended—**

- (a) by inserting next after subsection (4) the following as subsections (4A) and (4B)—

“ (4A) Notwithstanding the provisions of paragraph (a) of subsection (4), an award made in respect of an industrial dispute referred to the Tribunal for settlement may be made with retrospective effect from a date earlier than the date on which the dispute first arose, in accordance with subsection (4B)—

(4B) For the purposes of subsection (4A) where the dispute arose from—

- (a) the re-negotiation of a collective agreement which has expired, the award may be made with effect from the date of the expiry of that agreement;
- (b) the dismissal of a worker which is found to be unjustifiable, the award may be made with effect from the date of the dismissal;
- (c) any claim made with respect to a new bargaining unit, the award may be made with effect from such date as the Tribunal may determine.”;

(b) in paragraph (c) of subsection (5)—

(i) sub-paragraph (i)—

(AA) by deleting the word “shall” and substituting therefor the word “may”; and

(BB) by inserting immediately after the word “reinstated,” the words “then subject to sub-paragraph (iv),”;

(ii) by deleting the comma appearing at the end of sub-paragraph (iii) and substituting therefor a semi-colon;

(iii) by inserting next after sub-paragraph (iii) the following as sub-paragraph (iv)—

“(iv) shall, if in the case of a worker employed under a contract for personal service, whether oral or in writing, it finds that a dismissal was unjustifiable, order the employer to pay the worker such compensation or to grant him such other relief as the Tribunal may determine, other than reinstatement.”;

(c) in subsection (9)—

(i) by deleting from paragraph (a) the words “five thousand” and “two hundred” and substituting therefor the words “five hundred thousand” and “twenty thousand” respectively;

(ii) by deleting from paragraph (b) the words “five hundred” and “twenty” and substituting therefor the words “fifty thousand” and “two thousand” respectively.

Amendment  
of section 13  
of princi-  
pal Act.

**11. Section 13 of the principal Act is amended—**

(a) in subsection (1)—

- (i) by deleting from paragraph (a) the words “five hundred” and substituting therefor the words “five thousand”;
- (ii) by deleting from paragraph (b) the words “fifty thousand” and substituting therefor the words “five hundred thousand”;
- (iii) by deleting the semi-colon and all the words appearing after the words “whichever is the less”;

(b) in subsection (2) by deleting all the words appearing after the words “not exceeding” and substitute therefor the words “five thousand dollars”.

Amendment  
of section 18  
of princi-  
pal Act.

**12. Subsection (2) of section 18 of the principal Act is amended by deleting the words “two hundred” and substituting therefor the words “fifty thousand”.**

Amendment  
of section 19  
of princi-  
pal Act.

**13. Subsection (3) of section 19 of the principal Act is amended by deleting the words “one thousand” and substituting therefor the words “one hundred thousand”.**

Amendment  
of section 25  
of princi-  
pal Act.

**14. Section 25 of the principal Act is amended in subsections (3) and (4) by deleting the words “Section 5 does” wherever they appear and substituting therefor in each case the words “Sections 5 and 5A do”.**

Amendment  
of section 27  
of princi-  
pal Act.

**15. Subsection (2) of section 27 of the principal Act is amended by deleting the words “two thousand” and substituting therefor the words “five hundred thousand”.**

Amendment  
of section 28  
of princi-  
pal Act.

**16. Section 28 of the principal Act is amended in the marginal note thereto and subsection (1) by deleting the words “First Schedule” wherever they appear and substituting therefor in each case the words “First and Fifth Schedules”.**

17. Section 29 of the principal Act is amended by deleting subsection (4) and substituting therefor the following—

Amendment  
of section 29  
of principal  
Act.

“(4) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars.”.

18. Section 30 of the principal Act is amended by deleting subsection (3) and substituting therefor—

Amendment  
of section 30  
of principal  
Act.

“(3) Any employer who fails to comply with a request made pursuant to subsection (2) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars.”.

19. The First Schedule to the principal Act is amended—

Amendment  
of First  
Schedule  
to principal  
Act.

(a) by deleting from the heading the words “(Section 2)” and substituting therefor the words “(Sections 2 and 28)”;

(b) by deleting the following services—

“Public passenger transport services”;

“Telephone services”;

“Any business whose main functions consisted of—

- (a) the issue and redemption of currency;
- (b) the issue and redemption of Government Securities and the trading in such securities;
- (c) management of the official reserves of the country;
- (d) administration of exchange control; and
- (e) providing banking services to the Government.”;

“Air Transport services for the carriage of passengers, baggage, mail or cargo destined to or from Jamaica or within Jamaica.”.

Amendment  
of Second  
Schedule  
to princi-  
pal Act.

20. The Second Schedule to the principal Act is amended by inserting in paragraph 1 (1) (a) immediately after the word “Minister” where it first appears the words “, after consultation with organizations representing employers and organizations representing workers,”.

Insertion of  
new Fifth  
Schedule  
in princi-  
pal Act.

21. The principal Act is amended by inserting next after the Fourth Schedule the following as the Fifth Schedule—

“ FIFTH SCHEDULE (Sections 5B and 28)

Air transport services for the carriage of passengers, baggage, mail or cargo destined to or from or within Jamaica  
Banana services

Any business whose main function consists of—

- (a) the issue and redemption of currency;
- (b) the issue and redemption of Government Securities and the trading in such securities;
- (c) management of the official reserves of the Island;
- (d) administration of exchange control; and
- (e) providing banking services to the Government.

Banking services

Bauxite and alumina services

Marine services

Public passenger transport services

Sugar and its by-products services

Telephone services

Tourism services”.

22. The Labour Relations and Industrial Disputes Regulations, 1975 are hereby amended—

Amendment  
of the  
Labour Re-  
lations and  
Industrial  
Disputes  
Regulations,  
1975.

“(a) by deleting paragraph (6) of regulation 3 and substituting therefor the following—

(6) Any person—

(a) who refuses to supply the Minister any information which the Minister, pursuant to this regulation, requires him in writing to supply; or

(b) who willfully gives false information in a certificate referred to in subparagraph (a) of paragraph (1),

shall be guilty of an offence and be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars.”;

(b) in regulation 14 by deleting the words “two hundred” and substituting therefor the words “two hundred and fifty thousand”.”