



ORDINANCE NO. 44 OF 1956.

PUBLIC UTILITY UNDERTAKINGS AND PUBLIC HEALTH
SERVICES ARBITRATION ORDINANCE, 1956.

I assent.

P. M. Lenisa.

Governor.

15 November, 1956.

BRITISH GUIANA.

Arrangement of Sections.

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AN ORDINANCE to provide an arbitration Tribunal for the settlement of disputes in public utility undertakings and in certain services and to prohibit strikes and lock-outs in such undertakings or services, in certain circumstances, and for purposes in connection therewith.

Enacted by the Legislature of British Guiana:—

A.D. 1956.

Short title.

1. This Ordinance may be cited as the Public Utility Undertakings and Public Health Services Arbitration Ordinance, 1956. It shall apply to trade disputes in any of those services tendered by whomsoever to the public which are particularised in the schedule to this Ordinance and in any others to which the Governor in Council by notice in the Gazette shall declare that the Ordinance shall apply.

Schedule.

Interpretation and application.

2. (1) In this Ordinance, unless the context otherwise requires—

“employer” means any person who has entered into a contract to employ any employee and includes the agent, foreman, manager or factor of such person;

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

“lock-out” means the closing of a place of employment, or the suspension of work or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

“strike” means the cessation of work by a body of persons employed, acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or any person or body of persons employed, or to aid other workmen in compelling their employer or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment;

“trade dispute” means any dispute or difference between employers and workmen, or between workmen connected with the employment or non-employment, or the terms of the employment or with the conditions of labour of any person;

“trade union” means a trade union duly registered under the Trades Unions Ordinance.

(2) This Ordinance shall apply to persons employed by

or under the Crown in respect of Her Majesty's Government in the Colony in the same way as if they were persons employed by or under a private person.

3. (1) If any trade dispute exists or is apprehended in any service, or section of a service, that dispute may be reported to the Governor in Council by—

Trade
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dure.

- (i) an organisation of employers, on behalf of employers who are parties to the dispute and are members of that organisation;
- (ii) an employer, where the dispute is between that employer and workers in the employment of that employer; or
- (iii) an organisation of workers, on behalf of workers who are parties to the dispute and are members of that organisation;

and the decision of the Governor in Council as to whether a dispute has been so reported to him or not and as to the time at which a dispute has been so reported shall be conclusive for all purposes. A certificate under the hand of the Clerk to the Executive Council containing such information shall be conclusive evidence in all courts of the facts therein contained.

(2) Where any dispute is reported to the Governor in Council under subsection (1) of this section by any person or organisation other than an organisation such as is mentioned in subsection (4) of this section, then the Governor in Council shall consider the dispute and—

- (a) if he is of the opinion that there exists suitable machinery of negotiation or arbitration for the settlement of that dispute and that all practicable means of reaching a settlement through that machinery have not been exhausted he shall refer the matter for settlement to that machinery; so, however, that where a matter has been so referred for settlement and there is a failure to reach a settlement, or in the opinion of the Governor in Council a settlement is unduly delayed, the Governor in Council may cancel the reference and substitute therefor a reference to the Tribunal; or
- (b) if the Governor in Council is of the opinion that no such suitable machinery exists as is mentioned in paragraph (a) of this subsection, he shall take such steps as seem to him expedient to promote the settlement of the dispute and may, if he thinks fit, refer the matter for settlement to the Tribunal.

(3) Where steps to promote the settlement of any dispute have been taken by the Governor in Council under the provisions of subsection (2) of this section (otherwise than by means of reference to the Tribunal) and these steps have not resulted in a prompt settlement of the dispute, the Governor in Council shall refer the dispute for settlement to the Tribunal within ten days from the date on which the dispute was first reported to him as

aforsaid, unless in his opinion, the special circumstances of the case make it necessary or desirable to postpone such a reference.

(4) Where any dispute is reported to the Governor in Council solely by an organisation which, in his opinion —

- (a) does not habitually take part in negotiations regarding employment and the terms of employment and the conditions of labour in the service or section of the service in which the dispute exists or is apprehended; and
- (b) does not represent a substantial proportion of the employers or workers, as the case may be, engaged in the service or section of the service in which the dispute exists or is apprehended,

the Governor in Council shall consider the dispute and may take such steps as seem to him expedient to promote a settlement of the dispute and may, if he thinks fit, refer the matter for settlement to the Tribunal.

(5) Where the Governor in Council considers it expedient to refer any dispute to the Tribunal under subsection (4) of this section, he shall do so within one month from the date on which the dispute was first reported to him unless, in his opinion, the special circumstances of the case make it necessary or desirable to postpone such a reference.

(6) Whenever any trade dispute is reported to the Governor in Council by an organisation such as is mentioned in subsection (4) of this section the Governor in Council shall promptly inform the organisation that, in his opinion, it is such an organisation.

(7) Any agreement, decision or award made by virtue of the foregoing provisions of this section shall be binding on the employers and workers to whom the agreement, decision or award relates and, as from the date of such agreement, decision or award or as from such date as may be specified therein not being earlier than the date on which the dispute to which the agreement, decision or award relates first arose, it shall be an implied term of the contract between the employer and workers to whom the agreement, decision or award relates that the rate of wages to be paid and the conditions of employment to be observed under the contract shall be in accordance with such agreement, decision or award until varied by a subsequent agreement, decision or award.

4. For the purpose of settling trade disputes which cannot otherwise be determined, there shall be constituted a Public Utility and Public Health Services Arbitration Tribunal, in this Ordinance referred to as "the Tribunal".

5. The Tribunal shall consist of the following persons appointed by the Governor in Council, that is to say, three appointed members, one of whom shall be appointed Chairman, and two other members one of whom shall be chosen to represent employers and the other to represent employees.

Constitution
of Arbitra-
tion Tri-
bunal.

Composition
of the Tri-
bunal.

6. Panels of persons chosen to represent employers and employees respectively shall be constituted by the Governor in Council after consultation with organisations representative of employers and employees respectively and the members chosen to represent employers and employees at any sitting of the Tribunal shall be selected from those panels by the Governor in Council.

Panels for selection of members.

7. The appointed members of the Tribunal shall hold office for a term not exceeding two years but shall be eligible for re-appointment

Terms of office of members.

8. The Governor shall appoint a secretary to the Tribunal and such other officers and servants of the Tribunal as he may consider necessary for carrying out the purposes of this Ordinance, at such remuneration and on such terms and conditions as he may determine.

Appointment of secretary and officers.

9. The member chosen to represent employers, the member chosen to represent employees and one other member present at any sitting of the Tribunal shall constitute a quorum.

Quorum.

10. Where the members of the Tribunal are evenly divided in respect of their decision the matter shall be disposed of as the Chairman or other member presiding shall determine.

Decision of Tribunal.

11. Save as otherwise expressly provided in this Ordinance, the Tribunal may regulate its procedure and proceedings as it thinks fit.

Regulation of Tribunal proceedings.

12. An employer shall not declare or take part in a lock-out and a worker shall not take part in a strike in connection with any trade dispute unless —

Prohibition of lock-outs and strikes.

- (a) the dispute has been reported to the Governor in Council under section 3 of this Ordinance by a person or an organisation other than an organisation such as is mentioned in subsection (4) of that section;
- (b) one month has elapsed since the date of the report; and
- (c) the dispute has not during that time been referred by the Governor in Council for settlement in accordance with the provisions of that section.

13. The Governor in Council may refer to the Tribunal for advice any matter relating to or arising out of a trade dispute or trade disputes which, in the opinion of the Governor in Council, ought to be so referred; and the Tribunal shall enquire into the matters referred to it and report thereon to the Governor in Council.

References to Tribunal for advice.

14. (1) The Tribunal shall make its award or furnish its advice as the case may be to the Governor in Council without delay and where practicable within twenty-one days from the date of reference.

Award to be made without delay and may be retrospective.

(2) Subject to the provisions of subsection (7) of section 3 of this Ordinance an award on any matter referred to the

Tribunal for settlement may be made retrospective to such date as the Tribunal shall determine, and the decision of the Tribunal as to such date shall be conclusive.

Interpretation of the award.

15. If any question arises as to the interpretation of any award of the Tribunal the Governor in Council or any party to the award may apply to the Tribunal for a decision on such question and the Tribunal shall decide the matter after hearing the parties, or without such hearing provided the consent of the parties has first been obtained. The decision of the Tribunal shall be notified to the parties and shall be binding in the same manner as the decision in an original award.

Evidence.

16. For the purpose of dealing with any matter referred to it, the Tribunal shall have all the powers of the Supreme Court to summon parties and witnesses and to compel the production of any document, so as to elicit all such information as in the circumstances may be considered necessary, without being bound by the rules of evidence in civil or criminal proceedings:

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

Appearance by Counsel or Solicitor.

17. Any interested person may appear by Counsel or Solicitor or a trade union representative in any proceedings or enquiry under this Ordinance before the Tribunal.

Expenses.

18. (1) It shall be lawful for the Governor in Council to authorise payment to any member of the Tribunal appointed under this Ordinance of such remuneration as shall be determined by him.

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

Offences and penalties.

19. (1) Every employer who declares or takes part in a lock-out and every employee who takes part in a strike contrary to the provisions of this Ordinance shall, on summary conviction, be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding two months:

Provided that no prosecution for such a contravention shall be instituted without the consent of the Attorney General.

(2) The provisions of this Ordinance relating to an employer shall, when such employer is a company, be deemed to include every director, manager, secretary, attorney or other officer of the company unless any such director, manager, secretary, attorney or other officer shall satisfy the court that the lock-out was declared or taken part in without either his knowledge or assent.

Display of list of services.

20. There shall be displayed at or near every place of work where any of the services set out in the schedule to this Ordinance

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is carried on, a list containing such extracts of this Ordinance as the Governor in Council may direct.

21. The Trade Disputes (Essential Services) Ordinance is hereby repealed. Repeal.
Cap. 114.

SCHEDULE

Section 1.

1. All transport services of the Transport and Harbours Department.
2. The waterfront services undertaken by the following classes of waterfront workers engaged in the Shipping industry in the port of Georgetown —
Winchmen and leading hands;
Stevedores;
Packers;
Dockmen and Slingmen; and
Truckers.
3. The following Municipal Services undertaken by the Mayor and Town Council of Georgetown —
(a) House Service;
(b) Transport and Scavenging;
(c) The Cemeteries; and
(d) Operation and maintenance of the Incinerator.
4. The following Municipal Services undertaken by the Mayor and Town Council of New Amsterdam —
(a) Electricity Works;
(b) Water Works;
(c) Scavenging;
(d) Sewerage Disposal.
5. All services of the Georgetown Sewerage and Water Commissioners.
6. The electricity supply services of the Demerara Electric Company, Limited.
7. All undertakings in connection with Pumping installations used for drainage purposes.
8. All services in connection with public Hospitals owned and operated by the Government.
9. The electricity, water and fire-fighting services at Atkinson Field owned and operated by Government.
10. The Cable and Wireless Services of Messrs. Cable and Wireless (West Indies) Limited.
11. The Government telegraphic, telephonic and wireless services.

Passed by the Legislative Council this second day of November, nineteen hundred and fifty-six.

i. [Signature]
Clerk of the Legislature.

(Leg. Bill 43/1956.)
(L. C. 56/7/9 II)