

THE OFFICIAL GAZETTE 13TH JANUARY, 2006 LEGAL SUPPLEMENT

BILL No. 1 of 2006

Friday 13th January, 2006

PARLIAMENT OFFICE

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13th January, 2006

The following Bill which will be introduced in the National Assembly is published for general information.

S. E. Isaacs,
Clerk of the National Assembly.



GUYANA

BILL No. 1 of 2006

TRADE UNION RECOGNITION (AMENDMENT) BILL 2006

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Amendment of section 2 of Principal Act.
3. Amendment of section 3 of Principal Act.
4. Amendment of section 5 of Principal Act.

5. Amendment of Section 18 of Principal Act.
6. Amendment of Section 20 of Principal Act.
7. Amendment of Section 21 of Principal Act.
8. Amendment of Section 25 of Principal Act.
9. Repeal of section 32 of Principal Act.
10. Amendment of section 36 of Principal Act.
11. Saving of Court proceedings.
12. Transitional provisions relating to Board members.
13. Transitional provision relating to applications made to Board.
14. Transitional provisions relating to applications brought to attention of most representative organisation.

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3. Amendment of section 3 of Principal Act.
4. Amendment of section 5 of Principal Act.

A BILL

Intituled

AN ACT to amend the Trade Union Recognition Act 1997.

A.D. 2006

1. This Act, which amends the Trade Union Recognition Act 1997, may be cited as the Trade Union Recognition (Amendment) Act 2006.

Short title.
No.33 of 1997

2. Section 2(1) of the Principal Act is amended by inserting, after paragraph (g), the following paragraph -

Amendment
of Section 2
of Principal
Act.

“(ga) “the most representative” -

(i) in relation to trade unions, means the 5 (or such other number as is prescribed by regulations) trade unions with the largest membership; and

(ii) in relation to associations of employers, means the one (or such other number as is prescribed by regulations) association of employers with the largest membership;”

3. Section 3 of the Principal Act is amended by substituting, for the number “37”, the numbers “37(1)”,

Amendment of
section 3 of
Principal Act.

4. Section 5 of the Principal Act is amended as follows -

Amendment of
section 5 of
Principal Act.

(a) by substituting, for subsection (1), the following subsection -

“(1) The Board shall consist of seven members to be appointed as follows -

(a) a Chairman appointed by the Minister after consultation with the most representative trade unions and the most representative associations of employers;

(b) three members appointed by the Minister after consultation with the most representative trade unions;

(c) three members appointed by the Minister after consultation with the most representative associations of employees, and each member of the Board shall hold office for two years, subject to this Act.”

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- (b) by substituting in subsection (4), for the words “such associations as in his opinion are the most representative associations of trade unions and employers”, the words “the most representative trade unions and the most representative associations of employers”;

- (c) by repealing subsection (6);

- (d) by inserting in subsection (7), after the word “Chairman”, the words “or any other member”; and

- (e) by substituting in subsection (7), for the word “he” in both places where it occurs, the words “the member”;

Amendment of section 18 of Principal Act.

5. Section 18(4) of the Principal Act is amended by substituting, for the words “within two months of the date of its receipt”, the words “as soon as practicable”.

Amendment of section 20 of Principal Act.

6. Section 20 of the Principal Act is amended -

- (a) by inserting in subsection (1), after the word “shall”, the words “before determining the application”;

- (b) by deleting in subsection (1), the words “on the date of application”; and

- (c) by deleting in subsection (2), the words “on the date of application”.

Amendment of section 21 of Principal Act.

7. Section 21 of the Principal Act is amended -

- (a) by repealing subsection (1); and

- (b) by deleting, in subsection (2), the words “and there has been no resolution under subsection (1)”.

Amendment of section 25 of Principal Act.

8. Section 25(1) (a) of the Principal Act is amended by substituting, for the words “two months as mentioned in section 18(4)”, the words “six months”.

Repeal of section 32 of Principal Act.

9. Section 32 of the Principal Act is repealed.

Amendment of section 36 of Principal Act.

10. Section 36 of the Principal Act is amended by substituting, for the words “associations of trade unions and employers”, the words “trade unions and the most representative associations of employers”.

Saving of Court proceedings.

11. (1) Nothing in this Act affects proceedings commenced in any Court before the commencement of this Act.

(2) For the purposes of subsection (1), the provisions of the Principal Act shall continue in force as if this Act had not been enacted.

Transitional provisions relating to Board members.

12. (1) Notwithstanding the substitution of section 5(1) of the Principal Act by section 4(a) of this Act on the commencement of this Act -

(a) the person holding appointment as Chairman of the Board immediately before the commencement of this Act is deemed to have been appointed chairman of the board under section 5(1) (a) of the Principal Act.

(b) every person holding appointment immediately before the commencement of this Act as a member appointed by the Minister on the nomination of such association as in the Minister's opinion is the most representative association of trade unions, is deemed to have been appointed a member of the Board under section 5(1) (b) of the Principal Act; and

(c) every person holding appointment immediately before the commencement of this Act is a member appointed by the Minister on the nomination of such association as in the Minister's opinion is the most representative association of employers, is deemed to have been appointed a member of the Board under section 5(1) (c) of the Principal Act.

(2) A deemed appointment under subsection (1) expires on the earlier of-

(a) the date on which the appointment would have expired had this Act not been enacted; or

(b) the first anniversary of this Act coming into operation.

13. On the commencement of this Act, sections 18(4), 20 and 25(1) (a) of the Principal Act, as amended by this Act, apply in relation to every application for certification under Part III of the Principal Act, whether made to the Board before or after the commencement of this Act. Transitional provision relating to applications made to Board.

14. (1) The amendments to section 21 of the Principal Act made by section 7 of this Act do not affect any application brought to the attention of the most representative organisation of trade unions before the commencement of this Act Transitional provisions relating to applications brought to attention of most representative organisation.

(2) For the purposes of subsection (1) of this section, sections 21(1) and (2), of the Principal Act shall continue in force as if section 7 of this Act had not been enacted.

Clause 13 provides for applications to the Board, whether made before or after the commencement of this Act, to be dealt with in accordance with sections 18(4), 20 and 25(1) (a) of the Principal Act as amended by this Act.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Trade Union Recognition Act 1997.

Clause 1 sets out the short title.

Clause 2 inserts a definition of "the most representative", in relation to trade unions and associations of employers. The number of trade unions and employer associations to be consulted in making appointments to the Trade Union Recognition and Certification Board, and in the Board's performance of key functions, can be altered by regulations.

Clause 3 clarifies that the function of the Minister that cannot be delegated is the function of making regulations under section 37(1) of the Principal Act.

Clause 4 replaces the requirement to consult the most representative association of trade unions in making appointments to the Board, with a requirement to consult the 5 largest trade unions. The Board is also required to consult the largest association of employers. This Clause also allows the Minister to revoke the appointment of any member of the Board, and not just the Chairman, for actions inimical to the Board's functions or for being absent from three consecutive meetings without the Board's permission.

Clause 5 removes the two-month deadline for the Board to determine an application by a trade union for certification. The Board will instead be required to determine the application as soon as practicable.

Clause 6 removed the requirements for the board to carry out a membership survey to measure support for the union *as at the date of the application*. Instead, the Board can carry out the survey any time before determining the union's application for certification.

Clause 7 repeals section 21(1) of the Principal Act to remove the requirement to seek the intervention of representative associations of trade unions when two or more trade unions apply for certification in respect of the same bargaining unit.

Clause 8 allows a union to strike only if the Board has not determined the union's application for certification within *six months* of the application. Previously, a union could strike if its application was not determined within *two months*.

Clause 9 repeals section 32 of the Principal Act that provided for the Board, subject to challenges and certain qualifications, to automatically certify the union that was recognised as the bargaining union prior to the commencement of the Principal Act.

Clause 10 replaces the requirements to consult the most representative association of trade unions in the Board's making of rules, with a requirement to consult the 5 largest trade unions.

Clause 11 saves Court proceedings commenced before the commencement of this Act.

Clause 12 saves the appointment of Board members appointed before the commencement of this Act.

Clause 13 provides for applications to the Board, whether made before or after the commencement of this Act, to be dealt with in accordance with sections 18(4), 20 and 25(1)(a) of the Principal Act is amended by this Act.

Clause 14 provides for applications brought to the attention of the most representative organisation of trade unions before the commencement of this Act to be dealt with as if section 21 of the Principal Act had not been amended by this Act.



Minister of Labour, Human Services and Social Security

Minister of Labour, Human Services and Social Security

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section 12 of the Principal Act had not been amended by this Act.
It is the intention of the Government to deal with the
organisation of trade unions before the commencement of this Act to be dealt with as if
Clause 14 provides for applications brought to the attention of the most representative