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# INDUSTRIAL RELATIONS (AMENDMENT) BILL, 2017

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## INDUSTRIAL RELATIONS (AMENDMENT) BILL, 2017

### A BILL FOR AN ACT TO AMEND THE INDUSTRIAL RELATIONS ACT

**Enacted by the Parliament of The Bahamas**

**1. Short title and commencement.**

- (1) This Act which amends the Industrial Relations Act may be cited as the Industrial Relations (Amendment) Act, 2017.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice to be published in the *Gazette*.

**2. Amendment to Long Title of principal Act.**

The Long Title of the principal Act is amended by the deletion of the word “control” and the substitution therefor of the word “regulation”.

**3. Amendment of section 2 of the principal Act.**

Section 2 of the principal Act is amended by the insertion, in the appropriate alphabetical order, of the following new definition—

“ **“employer”** in relation to an employee, means any person or undertaking, corporation, company, public authority or body of persons including—

- (a) the owner of a business in which the employee is employed;
- (b) any managing agent of an employer;
- (c) in relation to an person engaged in plying for hire with any vehicle or vessel the use of which is obtained from the owner thereof under a contract of bailment (other than a hire-purchase agreement), the said owner;

- (d) in relation to a person employed for the purposes of any game or recreation and engaged or paid through a club, the manager, or where the club is managed by a committee, the members of the managing committee of the club, who or which employs any person to work under a contract of employment or uses the services of a commission agent or contract worker; and includes the heirs, successors and assigns of an employer;”.

**4. Amendment to Part II of the principal Act.**

The Heading of Part II of the principal Act is amended by the deletion of the word “CONTROL” and the substitution therefore of the word “REGULATION”.

**5. Repeal of section 39 of the principal Act.**

Section 39 of the principal Act is hereby repealed.

**6. Amendment of section 41 of the principal Act.**

Section 41 of the principal Act is amended—

- (a) in subsection (3) by the deletion of the words “reasonable time”, and the substitution therefor of the words “forty-five days of receipt the claim for recognition”; and
- (b) by the insertion immediately after subsection (4) of the following new subsection (5)—
  - “(5) Upon receipt of an industrial agreement proposal from a recognised trade union, the employer shall, within not less than forty-five days of receiving the said proposal, meet with such union for the purpose of commencing the collective bargaining process.”.

**7. Amendment of section 42 of the principal Act.**

Section 42 of the principal Act is amended by—

- (a) the deletion and substitution of subsection (4) as follows—
  - “(4) Where such a claim has been, or is deemed to have been, rejected—
    - (a) the union making the claim may not later than fourteen days after the rejection or the receipt of notice of rejection of the claim, as the case may be, submit the matter to the Minister for determination; and

- (b) the Minister shall make a determination and issue a certificate of determination within ninety days thereof.”;
- (b) by the insertion immediately after subsection (4) of the following subsection—
  - “(4A) Whenever there is any change in the ownership of a business and there is a Recognised bargaining unit, either voluntary or by virtue of a certificate of determination, that recognition shall be binding on any successor, administrator, transferee, executor and assign of the company, or surviving entity in the control of the company regardless of the nature of transfer or control including but not limited to purchase, sale, merger, consolidation, acquisition, leasing of operation, reorganisation, arrangement for the benefit of creditors, or bankruptcy. ”.

**8. Amendment of section 43 of the principal Act.**

Section 43 of the principal Act is amended—

- (a) in subsection (1), by the deletion of the words “twenty-five” and substitution therefor of the word “fifty”; and
- (b) in subsection (4), by the insertion immediately after the word “notify”, the words “, within thirty days of making,”.

**9. Insertion of new section 47A into the principal Act.**

The principal Act is amended by the insertion immediately after section 47 of the following new section 47A—

**“47A. Deductions of dues and contributions.**

- (1) An employee—
  - (a) may authorise his employer in writing to make periodic deduction from his wages of union dues and contributions duly payable by him to the trade union;
  - (b) may revoke his authorisation given under paragraph (a) by giving two months written notice to his employer and to the trade union concerned and the employer shall thereafter cease to make any deduction.
- (2) An employer shall comply with the request of an employee made under subsection (1) and shall within fifteen days of receipt of such deductions pay to the trade unions the funds so collected.

- (3) The requirement under subsection (1) shall cease if and when the trade union concerned is no longer registered.
- (4) This section shall apply notwithstanding any other law which limits deductions by employees or other persons in respect of wages or other remuneration payable to employees.
- (5) With each remittance, the employer shall provide the trade union, with—
  - (a) a schedule reflecting the names of employees from whose wages deductions of dues and contributions to that trade union have been made; and
  - (b) a full written account of the amounts collected and remitted.
- (6) Upon application by an affected party, the Supreme Court shall make such other or as it deems necessary to ensure compliance with this section.
- (7) Nothing in this section shall prevent an employer from agreeing at the request of an employee to make deductions of dues and contributions or fees in respect of a trade union not recognised under section 42.”.

**10. Amendment of section 51 of the principal Act.**

Section 51 of the principal Act is amended by the insertion immediately after subsection (1) of the following subsection (1A)—

“(1A) The terms and conditions of a registered agreement shall, where applicable, be deemed to be terms and conditions of the individual contract of employment of the workers comprised from time to time in the bargaining unit to which the registered agreement relates.”.

**11. Amendment of section 54 of the principal Act.**

Subsection (1) of section 54 of the principal Act is amended by the insertion immediately after the word “Tribunal”, of the words “which shall provide efficient and quality dispute resolution of industrial relations and employment matters for the benefit of employees and employers”.

**12. Amendment of section 55 of the principal Act.**

Section 55 of the principal Act is amended by the insertion immediately after paragraph (b) of the following new paragraph (c) —

“(c) to hear and determine any matter brought before the Tribunal pursuant to the Employment Act (*Ch. 321A*).”.

**13. Insertion of new sections 55A and 55B into the principal Act.**

The principal Act is amended by the insertion immediately after section 55 of the following new section—

**“55A. Referral of dispute to the Tribunal.**

The Minister may upon receipt of a dispute by an employee against his employer, in the form as may be determined by him,—

- (a) consider the circumstances and facts therein; and
- (b) if satisfied that the matter ought to be referred to the Tribunal for determination, forward the complaint to the Tribunal for such determination or decision.

**55B. Referral to Tribunal by the Registrar.**

Where there has been a failure to comply with any of the requirements to the Act, the Registrar or Trade Unions may refer the matter to the Tribunal for determination or decision, in the form that may be determined by him.”.

**14. Amendment of section 57 of the principal Act.**

Section 57 of the principal Act is amended by—

- (a) the deletion and substitution of 57(1) (a) and (b) as follows—
  - “(a) shall, so far as possible, conduct its proceedings in an informal manner, seeking to avoid formal, rigid procedures, practices and rules of courts of law, including the wearing of formal dress typical of courts;
  - (b) may act without regard to technicalities and legal form and shall not be bound by any written law or rule of law relating to the admissibility of evidence in proceedings before courts;”;
- (b) in subsection 57(1)(d) by the insertion immediately after the word “proceedings”, the words “in accordance with section 57(a)”;
- (c) by the insertion immediately after subsection (2) of the following new subsection—
  - “(3) Judgment in a matter concerning essential services shall be delivered not later than thirty days from the date of completion of the hearing save in exceptional circumstances.”.

**15. Amendment of section 58 of the principal Act.**

Section 58 of the principal Act is amended—

(a) in subsection (1), by the substitution of the full stop with a semi-colon at the end of paragraph (d) and the insertion immediately thereafter of the following new paragraph—

“(e) to levy fines in accordance with the provisions of this Act and the Employment Act (*Ch. 321A*).”; and

(b) in subsection (2), by the substitution of the full stop with a semi-colon at the end of paragraph (d) and the insertion immediately thereafter of the following new paragraph —

“(e) the necessity to promote decent working conditions in The Bahamas.”.

**16. Amendment of section 66 of the principal Act.**

Section 66 of the principal Act is amended by the insertion immediately after the words “forms to be used before it”, the words, “providing that such rules are prescribed in accordance with section 57(1)(a)”.

**17. Insertion of new section 66A into the principal Act.**

The principal Act is amended by the insertion immediately after section 66 of the following new section—

**“66A. Report to be laid before Parliament.**

(1) The President of the Tribunal shall, within six months from the end of every year, prepare an annual report on the administration of the work of the Tribunal and furnish such Report to the Minister, who shall cause it to be laid before both Houses of Parliament.

(2) The Report referred to under subsection (1) shall include, but is not limited to, information on the number of matters referred to the Tribunal, the number of matters resolved by the Tribunal for each reported year, and the dates of any referrals and decisions of the Tribunal for the reported year.”.

### OBJECTS AND REASONS

Clause 2 of the Bill seeks to amend the Long Title of the Act to provide for the regulation of trade unions.

Clause 3 of the Bill seeks to introduce the definition of employer.

Clause 4 of the Bill provides an amendment consequential to the amendment made by Clause 2 of the Bill for the regulation of trade unions.

Clause 5 of the Bill seeks to repeal section 39 of the Act which speaks to the control of foreign connections of unions and federations.

Clause 6 of the Bill seeks to amend section 41 of the Act to provide that employers shall meet with trade unions within forty-five clear days of receiving an industrial agreement union proposal.

Clause 7 of the Bill seeks to provide that the Minister shall issue a certificate of determination within ninety days of making such determination.

Clause 8 of the Bill seeks to amend section 43 to—

- (a) increase the required percentage of employees in a bargaining unit to make application to the Minister in accordance with section 43(1) from twenty-five to fifty per centum; and
- (b) provide that the Minister shall give notification of his determination or decision in writing within thirty days of the completion of the same.

Clause 9 of the Bill seeks to introduce a new section 47A into the principal Act. The proposed new section 47A seeks to introduce the requirement of employers to accept an employees request for the deduction of trade union dues from that employee's wages.

Clause 10 of the Bill seeks to amend section 51 by introducing a new subsection (1A) which provides that the terms and conditions of a registered agreement shall be deemed to be terms and conditions of the individual contract of employment of workers under the registered agreement.

Clause 11 of the Bill seeks to amend section 54 to provide that the Industrial Tribunal shall provide efficient and quality dispute resolution of industrial and employment matters.

Clause 12 of the Bill seeks to amend section 55 of the principal Act to provide that the Industrial Tribunal shall hear and determine any matter brought before it pursuant to the Employment Act (Ch. 321A).

Clause 13 of the Bill seeks to introduce a new section—

- (a) 55A which provides that the Minister may forward disputes by him to the Tribunal; and
- (b) 55B which provides that the Registrar may refer matters to the Tribunal where there has been noncompliance with any requirements of the Act.

Clause 14 of the Bill seeks to amend section 57 on the scope of hearing by the Tribunal to provide that—

- (a) proceedings are to, as far as possible, be conducted in an informal manner to avoid formal or rigid proceedings; and



- (b) judgments in matters relative to essential services are to be delivered within thirty days from the completion of the hearing.

Clause 15 of the Bill seeks to amend section 58 of the principal Act to provide that the Tribunal shall, in making its awards in trade dispute, be guided by the necessity to promote decent working conditions in The Bahamas and levy such fines as provided in the Act.

Clause 16 of the Bill seeks to amend section 66 of the principal Act to provide that any rules made by the Tribunal on the regulation of its own practice and procedure shall be in accordance with section 57(1)(a) of the Act.

Clause 17 of the Bill seeks to introduce a new section 66A which provides that the President of the Tribunal shall prepare annual reports to be laid before Parliament.

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