

## CHAPTER 360

### TRADE DISPUTES (ARBITRATION AND ENQUIRY) 1939-6

This Act came into operation on 12th June, 1939.

#### **Amended by:**

*1957-37*

*1963-5*

*1960-16*

*1967/168*

#### **Notes:**

*Application of Act to the Crown.*

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#### **Guide to symbols in historical notes:**

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument



## **CHAPTER 360**

### **TRADE DISPUTES (ARBITRATION AND ENQUIRY) 1939-6**

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#### SCHEDULE

##### *SUMMONS TO WITNESS*

**BARBADOS****TRADE DISPUTES (ARBITRATION AND ENQUIRY)**

1939-6

*An Act to provide for the establishment of an Arbitration Tribunal and a Board of Enquiry in connection with Trade Disputes and to make provision for the settlement of such disputes, and for the purpose of enquiring into economic and industrial conditions in the Island.*

[Commencement: 12th June, 1939]

**Short title**

1. This Act may be cited as the Trade Disputes (Arbitration and Enquiry) Act.

**Interpretation**

2.(1) For the purposes of this Act, the expression—

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

“workman” 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.

(2) This Act does not apply to persons in the naval, military or air services of the Crown or to the Police Force, but otherwise applies to workmen employed by or under the Crown in the same manner as if they were employed by or under a private person.

### **Trade disputes may be reported to the Governor-General**

3.(1) Any trade dispute as defined by this Act, whether existing or apprehended, may be reported to the Governor-General by or on behalf of either of the parties to the dispute, and the Governor-General shall thereupon take the matter into his consideration and take such steps as seem to him expedient for promoting a settlement thereof.

(2) Where a trade dispute exists or is apprehended, the Governor-General may, subject as hereinafter provided, if he thinks fit and if both parties consent, refer the matter for settlement to an Arbitration Tribunal constituted of either—

- (a) a sole arbitrator appointed by the Governor-General; or
- (b) an arbitrator appointed by the Governor-General, assisted by one or more assessors nominated by or on behalf of the employers concerned and an equal number of assessors nominated by or on behalf of the workmen concerned, all of whom shall be appointed by the Governor-General:

Provided that the award shall be made and issued by the arbitrator only or;

- (c) one or more arbitrators nominated by or on behalf of the employers concerned and an equal number of arbitrators nominated by or on behalf of the workmen concerned, and an independent chairman, all of whom shall be appointed by the Governor-General:

Provided that where all the members of the Tribunal are unable to agree as to their award, the matter shall be decided by the chairman as sole arbitrator.

(3) Where there are existing in any trade or industry any arrangements for settlements by conciliation or arbitration of disputes in such trade or industry, or any branch thereof, made in pursuance of an agreement between organisations of employers and organisations of workmen representative respectively of substantial proportions of the employers and workmen engaged in that trade or industry, the Governor-General shall not, unless with the consent of both parties to the dispute, and unless and until there has been a failure to obtain a settlement by means of those arrangements, refer the matter for settlement in accordance with the foregoing provisions of this section,

(4) Any sections of any Acts dealing with arbitration shall not apply to any proceedings of an Arbitration Tribunal under this Act or to any award issued by it.

#### **Vacancies on the Tribunal**

4.(1) Whenever an Arbitration Tribunal consists of more than one arbitrator and any vacancy occurs in their number, the Tribunal may, with the consent of the parties, act notwithstanding such vacancy.

(2) Whenever the Tribunal consists of an arbitrator assisted by assessors and any vacancy occurs in the number of assessors, the Tribunal may, in the discretion of the arbitrator, either act notwithstanding such vacancy or consent to another assessor being nominated and appointed to fill such vacancy.

(3) No act, proceeding, or determination of the Tribunal shall be called in question or invalidated by reason of any such vacancy, provided that in the circumstances referred to in subsection (1) the required consent has been first obtained.

**Award of tribunal not to conflict with any law**

5. Where any trade dispute referred to an Arbitration Tribunal involves questions as to wages or as to hours of work or otherwise as to the terms or conditions of or affecting employment which are regulated by any Act other than this Act, the Tribunal shall not make any award which is inconsistent with the provisions of that Act.

**Publication of the award**

6. Any award of an Arbitration Tribunal shall be submitted to the Governor-General who shall as soon as possible thereafter cause the same to be published in such manner as he thinks fit.

**Interpretation of the award**

7.(1) Where any question arises as to the interpretation of any award of an Arbitration Tribunal, the Governor-General 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 been first obtained.

(2) The decision of the Tribunal shall be notified to the parties and shall be deemed to form part of and shall have the same effect in all respects as the original award.

**Enquiry into trade disputes and industrial conditions and appointment of Board of Enquiry**

8.(1) Where any trade dispute exists or is apprehended, the Governor-General may, whether or not the dispute is reported to him under this Act, enquire into the causes and circumstances of the dispute and, if he thinks fit, refer any matters appearing to him to be connected with or relevant to the dispute to a Board of Enquiry (hereinafter referred to as the Board) appointed by him for the purpose

of such reference, and the Board shall enquire into the matters referred to it and report thereon to the Governor-General.

(2) The Governor-General may also refer any matter connected with the economic or industrial conditions in the Island to the Board for enquiry and report.

(3) The Board shall consist of a chairman and such other persons as the Governor-General thinks fit to appoint or may, if the Governor-General thinks fit, consist of one person appointed by the Governor-General.

(4) The Board may act notwithstanding any vacancy in its number.

### **Reports of the Board and publication**

9.(1) A Board of Enquiry may, if it thinks fit, make interim reports.

(2) Any report of the Board and any minority report shall be submitted to the Governor-General.

(3) The Governor-General may cause to be published from time to time, in such manner as he thinks fit, any information obtained or conclusions arrived at by the Board as the result or in the course of the enquiry:

Provided that there shall not be included in any report or publication made or authorised by the Board or the Governor-General any information obtained by the Board in the course of the enquiry as to any trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through evidence given at the enquiry, except with the consent of the secretary of the trade union or of the person, firm or company in question, nor shall any individual member of the Board or any person concerned in the enquiry, without such consent, disclose any such information.

### **Power to summon witnesses**

10.(1) An Arbitration Tribunal and a Board of Enquiry shall have power to summon any person to attend before the Tribunal or the Board, as the case may

be, and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

(2) A summons under this section shall be in the form prescribed in the Schedule and shall be signed by the arbitrator, the chairman of the Arbitration Tribunal, or the chairman of the Board of Enquiry, as the case may be.

(3) A summons under this section shall be served by a police constable.

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[1960-16]

### **Duty and privileges of witnesses**

**11.(1)** All persons summoned to attend and give evidence or to produce any paper, book, record or document before an Arbitration Tribunal or a Board of Enquiry—

- (a) shall be bound to obey the summons served upon them;  
*[1960-16]*
- (b) shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same right or privilege as before a court of law;
- (c) shall be entitled to be paid their expenses, at the rates prescribed by the Rules of the Supreme Court for witnesses who are entitled to have their expenses paid from public funds:

Provided that an Arbitration Tribunal or a Board of Enquiry, as the case may be, may disallow the whole or any part of such expenses in any case, if it thinks fit.

(2) Witnesses' expenses shall be paid by the Accountant-General on the production of a certificate from the secretary or other authorised officer of the Tribunal or Board, as the case may be, certifying the attendance of such witnesses for the purpose of giving evidence and the amount to which they are entitled.

**Penalty for disobedience, disrespect or obstruction**

**12.(1)** Any person who—

- (a) without sufficient cause, fails or refuses to attend before an Arbitration Tribunal or a Board of Enquiry in obedience to a summons under this Act or fails or refuses to produce any paper, book, record or document which he was required by such summons to produce; or  
*[1960-16]*
- (b) being a witness, leaves the Arbitration Tribunal or the Board, as the case may be, without the permission of the Tribunal or the Board; or
- (c) being a witness, refuses without sufficient cause to answer any question put to him by or with the permission of the Tribunal or the Board; or
- (d) wilfully obstructs or interrupts the proceedings of an Arbitration Tribunal or a Board of Enquiry,

shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for six months.

(2) A prosecution for an offence under this section shall not be instituted except by or with the consent of the Director of Public Prosecutions.

*[1964/8]*

**Protection of members of Tribunal and Board**

**13.** An arbitrator, the chairman of an Arbitration Tribunal or of a Board of Enquiry and every member and the secretary of such Tribunal or Board shall have the like protection and privileges in case of any action or suit brought against him for any act done as is by law given to any magistrate in the execution of his office.

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*[1960-16]*

**Appearance of counsel or solicitor**

**14.** It shall be in the discretion of an Arbitration Tribunal or a Board of Enquiry, as the case may be, to permit any interested person to appear by counsel or solicitor on any proceedings or enquiry under this Act before such Tribunal or Board.

**Sitting may be public or private**

**15.(1)** It shall be in the discretion of an Arbitration Tribunal or a Board of Enquiry, as the case may be, to admit or exclude the public or the press from any of its sittings.

(2) Whenever the press is allowed to be present at a sitting of the Tribunal or of the Board, and not otherwise, a fair and accurate report or summary of the proceedings including the evidence adduced at that sitting may be published.

(3) Until the award or the result of the enquiry has been published by order of the Governor-General, no comment shall be published in respect of the proceedings or the evidence.

(4) Any person guilty of a contravention of subsection (3) shall be liable on summary conviction to a penalty of four hundred and eighty dollars.

*[1960-16]*

**Rules of procedure**

**16.** The Judicial Advisory Council may make rules regulating the procedure to be followed by an Arbitration Tribunal or a Board of Enquiry, and whenever any question arises in the course of an arbitration or an enquiry in respect of which rules have not been made, the Tribunal or the Board, as the case may be, shall regulate its own procedure.

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*[1960-16]*

**Appointment of officers to carry out the purposes of the Act**

**17.** It shall be lawful for the Governor-General to appoint on such terms and conditions as he may determine such officers and other servants as may be necessary for carrying out the purposes of this Act.

**Remuneration of members of Boards of Enquiry and others**

**18.(1)** The Minister responsible for Finance may direct what sums, if any, shall be paid by way of remuneration—

- (a) to any officer or servant appointed by virtue of section 17 of this Act; and
- (b) to any arbitrator, assessor or member of any Board of Enquiry appointed under this Act,

and may direct payment of any other expenses, including subsistence and travelling expenses, attendant upon the carrying out of any arbitration or enquiry under this Act.

(2) Any payments directed to be made pursuant to subsection (1) shall be paid out of moneys voted for the purpose by Parliament.

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[1957-37; 1967/168]

**Cap. 110 not to apply**

**19.** The Arbitration Act shall not apply to any reference to arbitration under this Act.

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[1960-16]

**SCHEDULE***(s. 10 (2))**SUMMONS TO WITNESS*

To: *(name of person summoned and his calling and address, if known)*

You are hereby summoned to appear before the *(Arbitration Tribunal or Board of Enquiry as the case may be)* appointed by the Governor-General to *(state briefly the matter referred to the Tribunal or the Board)* at *(place)* upon the day of 19 , at o'clock and to give evidence respecting the matter which has been referred to the *(Tribunal or Board, as the case may be)*

*(If the person summoned is to produce any documents, add):*

And you are required to bring with you *(specify the papers, books, records and documents required)*.

Therefore fail not at your peril.

Given under the hand of *(Arbitrator, or Chairman of the Arbitration Tribunal, or Chairman of the Board of Enquiry, as the case may be)* this day of 19 .