**A BILL ENTITLED**

**PART I – PRELIMINARY**

**SHORT TITLE. INDUSTRIAL RELATIONS AND TRADE UNION BILL, 2022**

Being an Act to repeal the

Regulations of Wages and Industrial Relations Act, No. 18 of 1971 and the Trade Union Act, Cap 221 of 1940.

**PART II – INTERPRETATION 1.** In this Act unless the context otherwise requires-

**“assessors”** means an official appointed to assist a Judge in the Industrial Court;

**“authorised officer”** means the Commissioner of Labour or any other officer acting on his behalf and appointed by the Public Service Commission for carrying into effect the Provisions of this Act;

**“award”** means a judgment or decision by the Court;

**“business”** means any trade, undertaking, operation and establishment, whether corporate, public or private;

**“Check-off”** means the system of deducting union dues from the wages or salary of a worker by an employer;

**“commissioner of labour”** means an officer appointed by the Public Service Commission for carrying into effect the Provisions of this Act;

**“compensation”** means compensation as provided for by this Act;

**“congress”** means the Sierra Leone Labour Congress being the most representative organisation of workers;

**“contract of employment or service”** means any contract or agreement containing the conditions and terms of employment or service, whether written or oral, whether expressed or implied, individually or collectively, for a definite or indefinite period, whereby a worker agrees in return for wages or other remunerations to work for an employer or employing organization or institution or business establishment, including a contract of apprenticeship, in the public or private sector;

**“Court”** means the Industrial Court or a court of competent jurisdiction;

**“earnings”** include wages and any allowances in respect of increase in cost of living paid to the worker by the employer and the value of any food, fuel, or accommodation and any overtime payment or other special remuneration or benefit in kind;

**“employer”** means any person or group of persons including a government, any firm, corporation or company, a public or local authority, a partnership or business, or any other entity whatsoever for whom one or more workers work or have worked or normally work under a contract of employment and includes any person, heirs, successors or assignees, or any firm, corporation, company, authority or body who is placed in authority over all other workers employed by such person or group of persons, firm, company, corporation, or authority;

**“employers’ organisation”** means an organisation of employers that has among its principal objects the regulation of collective relations between employers and workers;

**“employment and occupation”** include access to vocational training, access to employment and to particular occupations and terms and conditions of employment;

**“environment”** means any working environment or premises in which work is done by a worker;

**“federation”** means the Sierra Leone Employers’ Federation being the most representative organisation of employers;

**“health”** means the physical and mental elements affecting health which are directly related to safety and hygiene at work;

**“industrial action”** means any concerted withdrawal of labour or restriction upon the availability or quantity of labour on the part of workers, and any lock-out by which one or more employers deny work and wages to workers. Such conducts shall not cease to constitute industrial action by reason only of the fact that the contract of employment expressly or impliedly permits such industrial action**;**

**“industrial court”** means an independent judicial body established by law to adjudicate disputes between employers and workers over employment rights and industrial disputes;

**“joint consultative committee”** means an advisory committee established under section 13 to advise generally on labour matters;

**“joint national negotiating board”** means the Joint National Negotiating Board for workers established under section 15 of this act;

**“Judicial and Legal Services Commission”** means a body established under section 140 of the constitution of Sierra Leone (Act no 6 of 1991) with a mandate to advise the Chief Justice in the performance of his administrative functions and to regulate the activities of members of the Judiciary;

**“Labour Officer”** means any officer appointed by the Public Service Commission and with the powers and obligations as provided in section (9) of this Act;

**“lock-out”** means a total or partial closing of a place of employment or the suspension of work by one or more employers, or the refusal by an employer to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons to accept terms and conditions affecting the employment; but does not include the closing of a place of employment for the protection of property or persons therein;

**“minister”** means the Minister responsible for labour;

**“ministry”** means the Ministry responsible for labour;

 **“National Minimum Wage”** means the existing or current national minimum wage fixed by the Joint National Negotiating Board;

**“person”** means any person or group of persons, company, firm, corporation or any other kind of body including their agents;

**“Public Service Commission”** means a body established under sub-section (1) of section 151 of the Constitution of Sierra Leone (Act No.6 of 1991).

**“registered”** means registered Trade Unions and Employers’ Organisations under this Act;

**“registrar”** means the Registrar of Trade Unions and employers’ organisation;

**“representatives of employers and workers”** means persons who have been designated and eligible for appointment to the Joint Consultative Committee by the Federation and the Congress respectively;

**“strike”** means the cessation of work by a group of persons employed acting in combination, or a concerted refusal or refusal under a common understanding by any number of persons employed to continue to work for an employer in consequence of a labour dispute, done as a means of compelling their employer or any person or group of persons employed to accept or not to accept terms or conditions of or affecting employment; and includes any concerted interruption of work or slowing down by workers commonly known as “sit-down-strike” or “a-go-slow” attempted or effected by workers for the reasons aforesaid, but, in agricultural undertakings, does not include delay in the conclusion of customary arrangements between workers as to the size and nature of a task;

**“supervisor”** means a worker who performs managerial functions including the hiring and firing for an employeror who it is agreed between an employer and a trade union to which the Minister has issued a Collective Bargaining Certificate, performs supervisory functions;

A Supervisor is a worker having authority in the interest of the establishment to recommend the hire, transfer, suspension, layoff, recall, promotion, discharge, reward or discipline of other workers, or having the responsibility to adjust their grievances or discipline of other workers, or having the responsibility to adjust their grievances or effectively to recommend such action and wherein the exercise of such authority is not only of routine or clerical nature but requires the use of independent judgment and receiving remuneration above any of his subordinates.

**“trade dispute”** means any disagreement or difference between employers and workers connected with the employment or the terms of the employment or with the conditions of labour of any worker, and includes any dispute connected with but not limited to any of the following-

(a) terms and conditions of employment including remuneration for employment;

(b) the engagement of a worker;

(c) the times at which, or the conditions under which any work is, or is not performed;

(d) the demotion, suspension or imposition of any other penalty or discipline of a worker;

(e) the termination of any agreement by which work is to be performed;

(f) the grievance or complaint of a worker in respect of his employment;

(g) the machinery for negotiating any matters specified in (a) to (f) above, or for the settlement of any grievance or dispute relating to a worker; or any other work-related dispute.

**“trade group council”** means a trade group negotiating council established under section (27) of this Act;

**“Trade Union”** means an organisation of Workers that has among its principal objects the regulation of collective relations between Workers and employers;

**“wage”** means remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable by virtue of a written or unwritten contract of employment by an employer to a worker for work done or to be done or for services rendered or to be rendered;

**“week”** means any period of five working days;

**“workplace”**means all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of their employer;

**“worker”** mean any person who has entered into or works under a contract of employment or other contract with an employer, whether the contract be by way of manual labour, clerical work or otherwise, expressed or implied, and (if it is expressed) oral or in writing and whether it be a contract of service or a contract concerning learning or a contract personally to execute any work or labour and includes an outworker, and a worker of Government.

**PART III: ADMINISTRATION AND JURISDICTION**

**Application 2. (1)** Subject to the provision of this section, this Act shall apply to all workers in the Republic of Sierra Leone, except where the contrary is expressly stated.

(2) In the event where there is conflict or inconsistency between the provisions of this Act and that of any other written law relating to industrial relations, this Act shall supersede.

(3)The Military and Police Forces, other than their civilian workers, shall be governed by their own laws and regulations.

(4)The Minister may, after consultation with the Joint Consultative Committee, by statutory regulation, exempt any person or class of persons or any trade, industry or undertaking whose terms and conditions of employment are governed by special arrangements from the operation of all or any of the provisions of this Act, or any regulation or order made or any direction given in pursuance of this Act.

(5)The Minister may, after consultation with the Joint Consultative Committee, by statutory regulation, extend the application of this Act to any category of persons excluded from its provisions.

(6)In this Act and in any Rules and Regulations made hereunder, unless the contrary intention appears-

1. Words importing the masculine gender include females;
2. Words in the singular include the plural and words in the plural include the singular.

**Administration. 3. (1)** The administration of this Act shall be the responsibility of the Commissioner of Labour acting under the authority of the Minister, except where the contrary is expressly stated.

(2) The Commissioner of Labour may delegate to any properly appointed Director, Labour Officer or any authorised officer the exercise of any of his powers and the performance of any of his duties, generally or in part, and may revoke such delegation by written notice at any time.

**Appointment of officers. 4.** The Public Service Commission shall appoint a Commissioner of Labour and such other officers, known as Directors, Labour Officers or as may be necessary for the purposes of the administration of this Act.

**PART IV – POWERS OF THE COMMISSIONER OF LABOUR AND LABOUR OFFICERS**

**Powers related to labour**

**inspection. 5.** (1) The provisions of this section shall be in addition to and not in derogation of any other powers or duties conferred or imposed on the Commissioner of Labour by the provisions of this or any other Act.

(2) The Commissioner of Labour shall have power to engage in Labour inspection. Labour inspection shall include but not limited to -

(a) securing the enforcement of legal provisions relating to terms and conditions of employment and work, discrimination and the protection of Workers while engaged in their work;

(b) the supply of technical information and advice to Employers, Workers and their organisations concerning the most effective means of complying with the legal provisions;

(c) bringing to the notice of the Minister defects or abuses not specifically covered by existing legal provisions.

 (3) The Commissioner of Labour shall be empowered-

(a) to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;

(b) to enter any premises which he may have cause to believe to be liable to inspection; and

(c) to carry out any examination, test or inquiry which he may consider necessary in order to satisfy himself that the legal provisions are being strictly observed, and in particular­-

(i) to question, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of this Act or legal provisions issued hereunder;

(ii) to require the production of any books, registers or other documents the keeping of which is prescribed by law or regulation relating to conditions of work, in order to ensure that they are in conformity with the legal provisions and to copy such documents or make extracts from them;

(iii) to enforce the posting of notices required by law or regulation.

(4) The Commissioner of Labour may by order, require any person to provide a remedy for any victimization of or retaliation against complainants, witnesses, and whistle-blowers.

(5) Prior to or upon arrival at a workplace on the occasion of an inspection visit, the Commissioner of Labour shall notify the employer or the employer’s representative of his presence, unless the Commissioner of Labour considers that such a notification may be prejudicial to the performance of his duty.

**Powers to**

**seal workplace. 6 (1)** The Commissioner of Labour shall have the power, after prior warning to the employer and after due consultation with the Minister responsible for labour and other relevant authorities, to order the temporary seal of a workplace for non-compliance with the relevant Labour Laws of the Republic of Sierra Leone.

(2) The Commissioner of labour shall, after due consultation with the Minister and other relevant authorities on an imminent danger to the safety and health of workers, require the temporary seal of a workplace, or the discontinuation of any work process.

(3) In addition to the exercise of his other powers, the Commissioner of Labour may institute civil or criminal proceedings before any court of law in respect of a contravention or alleged contravention of any of the provisions of this Act and any regulations made hereunder, and may prosecute and appear on his name in respect of such proceedings. This shall be without prejudice to the Commissioner of Labour’s power to recommend criminal prosecution where this or any other Act so provides.

**Complaint and**

**settlement of**

**industrial dispute. 7. (1)** Whenever an employer or worker neglects or refuses to fulfil a contract of employment or service, or whenever any question, difference or dispute arises as to the rights or liabilities of either party, or touching any misconduct, neglect or ill treatment of either party, or any injury to the person or property of either party, under any contract of service, the party feeling aggrieved may make a complaint to the Commissioner of Labour.

(2) Whenever a complaint is made under subsection (1) of this section-

(a) the Commissioner of Labour shall use lawful steps as may seem to him to be expedient to effect a settlement between the parties;

(b) subject to paragraph (a), the Commissioner may assess the value of services rendered by a worker, or in any case, where the rate or amount of wages or allowances to which a worker should be entitled have not been agreed upon between the employer and worker, or it is not certain what terms were agreed, he may decide the relative rights of the employer and worker; and may make such directions as in his opinion meets the justice of the case.

(3) If in the opinion of the Commissioner of Labour, the complaint appears to be difficult to resolve shall forthwith refer the complaint to the Industrial Court.

**Legal representation**

**of parties in conciliation**

**meetings. 8.** Unless the Commissioner of Labour deems it necessary, lawyers shall not attend or represent parties in conciliatory meetings at the Ministry. However, lawyers can represent their clients in the Industrial Court.

**Powers of**

**Labour Officers. 9.** A Labour Officer acting on behalf of the Commissioner of Labour shall have the power –

(a) to enter, investigate, inspect, examine, verify and assess employment and labour matters at all times, whether by day or by night any workplace and every part thereof, land or premises, organisation, institution or business establishment, fishing vessels, ferries, cargo ships or any other place thereof, when he has reasonable cause to believe that any person is employed therein, and to enter, investigate, inspect, examine, verify and assess employment and labour matters at all times whether by day or by night any place which he has reasonable cause to believe to be a workplace;

(b) to question, either alone or in the presence of any other person, any person whom the Labour Official has cause to believe to be, or to have been a person to whom this Act applies, in connection with any matter for securing the due observance of this Act;

(c) to order the production of records of wages or any other relevant document required to be kept by employers, and to inspect and examine the same, and copy any material part thereof;

(d) to take with him a Police Officer if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(e) to investigate complaints from workers and employers alike concerning violations of terms and conditions of employment;

(f) to invite or summon any employer or worker to a conciliatory meeting;

(g) to advocate, prosecute, conduct or defend before a High court (Industrial Court) any charge, information, complaint or other proceedings arising under this Act, or in the discharge of his duty as Labour Officer.

**Obstruction of the**

**Commissioner of**

**Labour or**

**Labour Officer 10.** Any person, or institution who -

(a) wilfully delays or obstructs the Commissioner of Labour or any Labour Officer in the exercise of any power, duty or function under this Act;

(b) hinders, prevents or molests the Commissioner any Labour Official in the exercise of any of his powers or duties set out in this Act;

(c) fails to comply with or honour any direction, order, requirement or request for information or document, demand for or inquiry of the Commissioner Labour or any Labour Officer, made or given in pursuance of any power, duty or function conferred upon him by this Act or direction for compliance with the provisions of this Act, or any other Act that regulates labour matters;

(d) fails to honour any letter of invitation to conciliation meeting with respect to any labour matter reported;

(e) provide inaccurate or deficient record or information to the Commissioner of Labour or any Labour Officer with an intention to defraud or who acts so as to conceal fraudulent acts;

(f) conceals or attempts to conceal or otherwise prevent any person from appearing before, being examined by the Commissioner of Labour or any Labour Officer;

commits an offence and upon conviction shall be liable to a fine not less than three months national minimum wage in respect of each offence or to a temporary closure of the workplace.

**Conduct of the**

**Commissioner of**

**Labour and**

**labour officers 11.** Subject to such exceptions as may be prescribed, the Commissioner of Labour or any Labour Officer-

(a) shall not have any direct or indirect interest in any undertaking or labour matter under his supervision or presiding over;

(b) shall not disclose any information obtained by him in the exercise of his powers or duties under this Act, except to persons acting in the execution of this Act, and except so far as such information may be necessary for the performance of his duties;

(c) shall treat as absolutely confidential the source of any complaint bringing to his notice a defect or breach of legal provisions and shall give no information to the Employer or worker or his representative that action was taken in consequence of the receipt of such complaint.

**Indemnity of the**

**Commissioner of**

**Labour and**

**Labour Officer 12.** The Commissioner of Labour or any Labour Officer shall not be personally liable for any action done whatsoever if the action is reasonably done in pursuance of this Act or in the exercise of his powers under section 9.

**PART V – THE JOINT CONSULTATIVE COMMITTEE AND THE JOINT NATIONAL NEGOTIATING BOARD**

**Establishment of**

**Joint consultative**

**committee 13. (1)** There shall be established a Committee to be known as the Joint Consultative Committee which shall consist of an equal number of representatives of ten each from employers and workers as the Minister in consultation with Congress and Federation may appoint, by notice published in the Gazette and six officials of the Ministry responsible for labour including the Commissioner of Labour.

 (2) Any appointments made under sub-section (1) shall be for a fixed period of 5 years.

 (3) No person shall be removed from the Committee before the expiration of his term of appointment, save for good cause. “Good Cause’” means-

1. being convicted of an offence involving dishonesty or fraud within a period of 5 years preceding the appointment;
2. being an un-discharged bankrupt; or
3. non-attendance, without reasonable cause or excuse, at three consecutive meetings of the Committee;
4. has lost membership in his organisation.

 (4) The Chairperson of the Joint Consultative Committee shall be the Commissioner of Labour.

 (5) The Joint Consultative Committee shall meet as necessary for the conduct of its business but at intervals not greater than six months between meetings.

 (6) The Joint Consultative Committee may make provisions for the conduct of meetings and the procedure to be followed by the Committee.

**Functions and**

**duties of the joint**

**consultative committee 14. (1)** The functions of the Joint Consultative Committee shall be to advise the Minister on general labour matters including the following-

 (a) The formulation and implementation of a coherent policy on basic conditions of employment and on health, safety and welfare at work;

(b)Proposals for the adoption and amendment of any legislation affecting labour or industrial relations;

 (c)The promotion of collective bargaining;

(d) matters concerning relations between Sierra Leone and the International Labour Organisation and related bodies, including the making of replies and comments to questionnaires and proposed texts of international Labour standards, the taking of action necessary to comply with the obligation of membership of the International Labour Organisation and any proposed denunciation of ratified conventions;

 (e) other functions as are or may be conferred on it by this Act and any other enactment.

 (2) The Joint Consultative Committee shall, in carrying out its functions, give effect to the principle of equal remuneration for men and women for work of equal value.

(3) The JCC may call upon any relevant person(s) or institution(s) as it deems necessary to assist in carrying out its functions

**Establishment of**

**Joint National**

**Negotiating Board 15.** There is hereby established a board to be called the Joint National Negotiating Board to be constituted as specified in the First Schedule. The Minister shall by notice published in the Gazette from time-to-time amend the Schedule.

**Powers of the**

**Joint National**

**Negotiating Board 16. (1)** The Joint National Negotiating Board shall have the sole power to fix national minimum rate of pay, paid public holidays and maximum hours of work including overtime for all employed persons.

(2) The national minimum rate of pay, paid public holidays and maximum hours of work including overtime stipulated in pursuance of subsection (1) shall not be applicable where more favourable paid public holidays and maximum hours have been agreed by a Trade Group Council established under section (28) of this Act.

(3) The Joint National Negotiating Board shall publish the national minimum rates of pay, paid public holidays and maximum hours of work including overtime which it has fixed, together with a statement setting out the reasons for fixing such national minimum rates of pay, paid public holidays and maximum hours at work.

(4) Subject to subsections (6), (7) and (8) below the Joint National Negotiating Board may, at the petition of a majority of members of the Joint National Negotiating Board representing workers or employers cancel or vary any minimum rate of pay fixed under this section, if it is of the opinion that there has been a substantial change of circumstances since the rate was fixed.

(5) The Joint National Negotiating Board may make provisions for-

1. the employment of disabled persons at less than the rates of pay and hours of work determined and fixed in accordance with the provisions of this section, subject to a disabled person being in possession of a certificate issued to him by the Commissioner of Labour exempting the employer concerned from such statutory rates of pay and hours of work.
2. The employment of young person by the head of a family or members of such family, in a family business, subject to the requirements of the law, in particular section (94) of the Employment Bill, at less than the rates of pay and hours of work fixed under this section;
3. Lower minimum rates of pay for persons who are learning a trade or occupation, if the Joint National Negotiating Board determines that it is necessary to secure their effective instruction, and subject to any conditions set by the Board;
4. Micro, Small and Medium Enterprises/ informal economy employer employing less than five workers.

(6) Before exercising its powers under subsections (1) and (4), the Joint National Negotiating Board shall give notice of its proposals and shall consider any objections to the proposal from any aggrieved party which may be lodged with it within 30 days from the date of the notice.

(7) The Joint National Negotiating Board shall not, without the consent of the Commissioner of Labour, give notice of a proposal to vary the rate.

(8) The Joint National Negotiating Board, in carrying out its functions, shall give effects to the principle of equal remuneration for men and women for work of equal value

**Confirmation of**

**minimum rate**

**or cancellation or**

**variation of rate 17. (1)** Where the Joint National Negotiating Board has fixed any minimum rates of pay, or has cancelled or varied any such rate, it shall give at least prior notice of sixty days of its decision to the Commissioner of Labour, and such notice shall include a statement as to the date on which the Joint National Negotiating Board has decided that the rate or the cancellation or variation of the rate should come into operation.

 (2) The Commissioner of Labour, on receipt of notification referred to in subsection (1), shall consider the matter and, unless he thinks it necessary to refer the matter back to the Joint National Negotiating Board for reconsideration, without delay submit the notification of the rate or the cancellation or variation of the rate to parliament.

 (3) The decision to submit the notification by the Commissioner of Labour under subsection (2) shall be made not later than 30 days prior to the date decided by the Joint National Negotiating Board unless he considers it necessary or desirable to postpone the submission having regard to the special circumstances, if any, of the case.

 (4) Any decision by the Commissioner of Labour to submit the notification of the rate or the cancellation or variation of the rate to parliament shall be subject to an appeal to the Minister by an aggrieved party to be lodged within 30 days of the receipt of such notification from the Joint National Negotiating Board.

 (5) The Commissioner of Labour shall, in the absence of any such appeal referred to in subsection (4), at the expiry of the said period of 30 days, submit the notification of the rate or the cancellation or variation of the rate to parliament.

 (6) Any such minimum rate, or the cancellation or variation of any such rate, shall, in the absence of an appeal or if such appeal has been disallowed by the Minister and subject to parliament approval become effective as from the date specified by parliament

 (7) Parliament shall issue a direction in writing confirming the rate or the cancellation or variation of the rate and notify the Commissioner of Labour of its decision and give notice of the issue of the direction and its contents in the Gazette.

 (8) The national minimum rate of pay so fixed and thus stipulated shall remain in operation for a maximum period of two years from the date approved by parliament or until a new rate is fixed.

 (9) Any employer who pays wages to his workers below the national minimum wage shall be liable to a fine not less than twenty months national minimum wage

**Dissolution of the**

**Joint National**

**Negotiating Board 18. (1)** The Minister shall, at any time after consultation with the Congress and the Federation, by the publication of a notice, dissolve the Joint National Negotiating Board.

 (2) Any such dissolution referred to in subsection (1) shall be without prejudice to any acts or recommendations of the Joint National Negotiating Board made prior to its dissolution.

**Penalty for non-payment**

**of confirmed national**

**minimum rates of wages 19. (1)** Where any national minimum rate of wages has been confirmed by direction of the Commissioner of Labour under this Act, an employer shall, in cases to which the minimum rate is applicable, pay wages to the worker the Worker at not less than the minimum rate clear of all deductions, and, if he fails to do so, shall be liable in respect of each offence to a fine not less than twenty months national minimum wage.

 (2) Where an offence for which the employer is liable to a fine under subsection (1) has been committed by some agent of the employer or by some other person, that agent or other person shall be liable to be prosecuted for the offence in the same manner as if he were the employer, and either together with, or before or after the employer, and shall be liable to the same fine as that to which the employer is liable.

 (3) Where an employer who is charged with an offence under this section proves to the satisfaction of the Court that he has used due diligence to enforce the execution of this section, and that the offence was in fact committed without his knowledge, consent or connivance, he shall, in the event of that agent or other person being found guilty of committing the offence, be exempt from any fine.

 (4) Whether or not an agent or some other person is found guilty of committing an offence under this section shall be without prejudice to the power of the Court under subsection (1) of Section (21), to order the employer to pay any sum which appears to the Court to be due to the Worker on account of wages.

 (5) Where the immediate employer of a worker to whom a national minimum rate of wages applies, is himself or herself in the employment of some other person, and the Worker is employed in the premises of that other person, that other person shall, for the purposes of the provisions of this Act relating to the penalty for not paying wages in accordance with the rate, be deemed to be the employer of the Worker jointly with the immediate employer.

**Consideration of complaints**

**by Commissioner of Labour**

**as to infraction of**

**minimum rates. 20.** Any worker or person authorized by a worker, may complain to the Commissioner of Labour that the wages paid to the worker by the employer for work to which a minimum rate has been fixed by the Joint National Negotiating Board, are at a rate less than the minimum rate, and the Commissioner of Labour shall consider the matter and may, if he thinks fit, take any proceedings authorized under this Act, on behalf of the worker.

**Recovery of arrears 21. (1)** Where an employer has been convicted under section (19), for failing to pay wages at less than the national minimum rate to a worker, the Court may—

1. order the employer to pay, in addition to any

fine, such sum as appears to the Court to be due to the Worker on account of wages for the period during which the offence is alleged and found to have been committed, the wages being calculated on the basis of the minimum rate; or

1. notwithstanding the provisions of paragraph (a) if notice of intention to do so has been served with the summons, warrant or complaint, permit evidence to be given of any failure on the part of the employer to pay wages at less than the minimum rate to that Worker at any time during the year immediately preceding the date on which the complaint was made, and, on proof of failure, order the employer to pay such sum as, in the opinion of the Court, represents the difference between the amount which ought properly to have been paid to the Worker by way of wages during that year, and the amount actually paid from the employer.

 (2) Nothing in subsection (1) shall derogate from any right of the Worker to recover wages by any other proceedings.

 (3) Where it appears to the Commissioner of Labour that any sum is due from an employer to a worker by reason of the fact that wages have been paid to that Worker at less than the minimum rate applicable, and that it is not possible to recover the sum so appearing to be due, or some part of that sum, by this section, the Commissioner of Labour may, if it appears expedient to do so by reason of the refusal or neglect of the Worker, take necessary proceedings before any Court for the recovery of the said sum from the employer.

**Prevention of evasion 22.** Any proprietor, shopkeeper, dealer or trader, who by way of trade makes any agreement, express or implied, with any person, in pursuance of which that person performs any work for which a minimum rate of wages has been fixed under this Act, shall be deemed, for the purpose of this Act, to be the employer of that person, and the net remuneration obtainable by that person in respect of the work, after allowing for his necessary expenditure in connection with the work, shall be deemed to be wages.

**Prohibition of**

**receipt of premium**

**where minimum**

**rate is in force 23. (1)** Where a worker in any occupation, being a person to whom a minimum rate of wages fixed by the Joint National Negotiating Board applies, is an apprentice or learner, it shall not be lawful for his employer to receive directly or indirectly from the apprentice or learner, or on his behalf or on his account, any payment by way of premium.

 (2) If any employer acts in contravention of this section, such employer shall be liable in respect of each offence to a fine not less than twenty four months national minimum wage, and the Court may, in addition to imposing a fine, order him to repay to the Worker or other person by whom the payment was made the sum improperly received by way of premium.

**Keeping of records**

**by employers 24. (1)** Every employer who employs persons to whom a minimum rate of wages fixed by the Joint National Negotiating Board or a Trade Group Council is applicable, shall keep such records of wages as are necessary to show that the provisions of this Act are being complied with in relation to such persons, and if the employer fails so to do, commits an offence and upon conviction shall be liable to a fine not less than of two months national minimum wage.

1. Any person who-
2. Makes, or cause to be made, or knowingly allows

to be made any wages sheet or any record of wages or payments, which is false in any material particular; or

1. Produces or causes to be produced, or knowingly

allows to be produced, any such record to any Labour Officer in exercise of the powers given under Section (9) of this Act, knowing the same to be false; or

1. furnishes any information to any such labour officer, knowing the same to be false; commits an offence and upon conviction shall be liable to a fine not less than fifteen months national minimum wage.

**Void agreements 25. (1)** Any agreement for the payment of wages in contravention of any of the provisions of this Act shall be void.

(2) Subsection (1) is not a bar to the Worker being paid for work performed in the past. Such payment shall be made in accordance with the provisions of this Act.

**Agreed terms to be**

**observed by employers 26. (1)** Subject to subsection (2), where a signed agreement has been submitted to the Commissioner of Labour for publication in the Gazette under section (33), all employers of the Workers or group of workers specified therein shall, with immediate effect, observe the agreed terms and conditions of employment not less favourable than such recognized terms and conditions.

(2) Where a worker or group of workers in respect of whom a Trade Group Council has agreed upon terms and conditions of employment is employed as a worker or group of workers in respect of whom wages have already been fixed by the Joint National Negotiating Board or a Trade Group Council in accordance with section (21) the wages payable to such Worker or group of workers shall be the wages fixed by such Joint National Negotiating Board or Trade group Council.

**Institution of**

**prosecution proceedings 27.** Any proceedings arising under the provisions of this Act-

 **(a)** shall be instituted by any aggrieved person or party,

 trade group council, employer or a trade union by referring the matter to the Commissioner of Labour for further investigation before taking such matter to the Industrial Court;

 (b)All matters referred to the Commissioner of Labour shall be resolved within 42 working days upon receipt of the complaint.

(c) may be taken before an Industrial Court where the person concerned is situated for the time being; and

(d) may be prosecuted or conducted before an Industrial Court by a Labour Officer, or trade union official although he is not a legal practitioner.

**PART VI – REGULATION OF TRADE UNIONS AND EMPLOYERS’ ORGANISATION**

**Establishment of**

**Trade Group Councils 28. (1)** There are hereby established trade group negotiating councils to be called Trade Group Councils for each of the following trade groups-

1. Exploration and Mining;
2. Building and construction
3. Commercial
4. Shipping and forwarding (public/private)
5. Industrial
6. Oil (marketing and refinery)
7. Public utilities
8. Banking, Insurance and Accounting
9. Hotels, catering and entertainment
10. Printing
11. Transport (Road, Rail and Inland waterways)
12. Municipal and local government
13. Agriculture (public/private)
14. Air Transport (public/private)
15. Teaching services (public/private)
16. Fishing
17. Civil Service
18. Services (public/private)
19. Information and Communication Technology (ICT)
20. Health Services (public/private)

(2) The Minister shall, by notice publish in the Gazette, after consultation with congress and federation, add new trade groups and corresponding Trade Group Councils as and when the circumstances in his opinion warrant such addition.

(3) Where there is difficulty in agreeing in which trade group a new Trade Union or industrial concern should feature, the Congress and the Federation shall refer the matter to the Joint Consultative Committee which shall make recommendations to the Minister regarding placement in the appropriate trade group of such new Trade Union or industrial concern.

(4) Upon the receipt of the recommendation referred to in subsection (3), the Minister shall, unless he thinks it necessary to refer the matter back to the Joint Consultative Committee, as soon as may be possible, issue the necessary order.

**Composition of the**

**Trade Group Councils 29. (1)** A Trade Group Council shall comprise an equal number of representatives of employers in like concerns and of representatives of Trade Unions representing workers in the trade group.

(2) Both sides of a trade group may jointly in the event of a disagreement request the Minister to appoint an independent chairperson, or an independent chairperson and appointed members if they are of the opinion that in the particular circumstances of that trade group, the proceedings of their Trade Group Councils will be facilitated by such appointment.

**Introduction of**

**Check-off system**

**of Collecting Trade**

**Union dues 30. (1)** Upon the request of a trade union to whom a collective bargaining certificate has been issued, the employer or employers concerned shall introduce the check-off system of collecting trade union dues.

(2) Any check-off introduce by a union to intending members which same are forwarded to the commissioner of labour shall be verified before authorizing the employer to deduct union dues and pay same to the union

(3) Any unionised member opting out of a union shall notify the union in writing by filling a cessation form and forward same to the union and copy to management.

(4) Management upon receipt of such forms shall inform the Commissioner of Labour in writing with copies attached for verification.

(5) Any employer or trade union who is in breach of this section shall, upon conviction pay a fine not less than three months national minimum wage.

**Powers of Trade**

**Group Councils 31.** The powers of the Trade Group Councils shall be-

1. to peacefully and in good faith negotiate wages, terms and conditions of employment for employed persons, consistent with the financial resources of the respective trade groups and the mutual advantages to be derived from the success of enterprises in terms of providing wage-earning employment and retirement security;
2. to eradicate industrial conflict by harmonising the aspirations of management and Workers;
3. to create such mutual confidence between management and Workers as will serve their best interests;
4. to promote management and Worker education programmes designed to increase consciousness of each other’s difficulties, the benefits of improved skills and high productivity and of respect for each other’s property;
5. to give effect to the principle of equal remuneration for men and women for work of equal value, and
6. to give advice on interpretation in dispute between an employer and worker

**Functions of Trade**

**Group Councils 32.** The functions of a Trade Group Council shall be to agree to wages, terms and conditions of employment or service within the trade group to which it refers, and shall include-

1. power to fix holidays with pay; during any holiday so fixed, no Worker shall receive from his employer less than the rate of pay prescribed by the Joint National Negotiating Board or trade group council for such Workers;
2. power to fix overtime rates of pay in respect of hours worked in any week or in any day by all or any of the Workers in relation to whom the Joint National Negotiating Board or trade group council operates in excess of the number of hours declared by the Joint National Negotiating Board or trade group council to be normal number of hours of work per week or for that day of such Workers.

**Lodging of**

**Collective bargaining**

**agreements 33. (1)** A collective bargaining agreement arrived at by a Trade Group Council shall be lodged with the Commissioner of Labour by the Trade Group Council.

(2) On the lodging of the collective bargaining agreement, the Commissioner of Labour shall consider the agreement and within fourteen days of receipt shall—

1. Gazette the agreement without amendment;
2. refer it back to the parties to the agreement for further negotiation for any of the reasons set out in subsection (3);
3. with the consent of the parties, register the agreement with such amendment or modifications as he may consider necessary; or
4. refuse, in accordance with subsection (3), to register the agreement.

(3) The Commissioner of Labour may refuse to register a collective agreement on any of the following grounds-

1. if conflicts with any of the provisions of this Act, the Constitution or any other law;
2. there is in force an unexpired collective agreement relating to Workers covered by the collective agreement submitted for registration;
3. the agreement provides for terms and conditions of employment less favourable to Workers than those provided by any law or an existing collective agreement.

(4) Any affected party may appeal to the Minister or the Industrial Court against any refusal by the Commissioner of Labour to register an agreement.

**Status of registered**

**collective Agreements 34. (1)** A collective agreement shall be binding upon the parties to the agreement if it has been duly signed by the parties concerned on behalf of employers and workers operating within the trade group.

1. Any gazetted collective agreement shall be binding on-
2. the members of any organisation(s) or trade group operating within the trade group;
3. every employer and Worker who were members of such organisations or trade group before the date of the collective agreement;
4. every employer and Worker who became members of such organisations or trade group after the date of the collective agreement;
5. every employer and Worker operating in the trade group.

(3) For the avoidance of doubt, a gazette collective agreement shall-

1. remain binding despite-

(i) a change of employer;

(ii) a change of ownership of the undertaking or industry concerned; or

 (iii) a change in the membership or structure of the Trade Union or Employers’ Organisation;

1. remain binding until-

(i) it is replaced by a new collective

agreement; notwithstanding any provision therein, the collective agreement shall expire at the end of three years after coming into force; or

(ii) it is terminated by the mutual agreement of the parties thereto.

(4) Negotiations shall recommence, at the request of either party to the gazetted collective agreement, within 30 days before the expiration date of the agreement or any time after its expired date.

(5) An agreement arrived at by a trade group council shall substitute any existing agreement whose terms are less favourable than the relative provision of the new agreement

(6) Upon application by an affected party, the Industrial Court shall determine whether any employer or Worker, or any class of employers or Workers is covered by a registered collective agreement.

(6) Where a gazetted collective agreement contains clauses directly applicable to the terms and conditions of employment of a worker or class of Workers, such clauses shall be deemed to be incorporated as terms and conditions of the contract of employment of such Workers employed by a party to the agreement irrespective of whether any such Worker is a member of the Trade Union party to the agreement.

(8) Any Employer who fails to comply with the provisions of a collective bargaining agreement which is binding upon him shall, without derogation from any other remedies that may be available against him for its enforcement, be guilty of an offence and liable to a fine not less than twenty four months national minimum wage.

**Failure to negotiate**

**new terms and**

**conditions of service 35.** Trade group negotiating councils who fail to negotiate new terms and conditions of service in their industrial concern after the expiration of the existing agreement for more than five months, the Commissioner of Labour shall be notified to convene a meeting of the trade group negotiating council concerned.

**Employers may**

**offer better terms**

**and conditions 36.** Notwithstanding agreements reached by the Trade Group Councils, employers within the various trade groups will be at liberty – where they have the ability to do so and without prejudice to employers who adopt the terms and conditions to which these agreements refer – to offer better wages and terms and conditions that are provided for in these agreements. Any such wages and terms and conditions shall be made in consultation with the Trade Union concerned and be made known to the Workers affected, in a joint statement made in writing and signed by a manger of the employer and the General Secretary of the said Trade Union.

**Issuance of collective**

**bargaining certificate 37. (1)** Trade Unions representing workers in the trade group council shall be issued by the Minister with a collective bargaining certificate which will list all the employers within the trade group covered by such certificate and employers operating under such trade group are required to adhere to agreements reached following joint negotiations regarding all categories of workers.

(2) Any registered trade union who fails to acquire bargaining certificate after registration for three years may be struck off from the Trade Union register.

(3) Where there is any disagreement regarding a recommendation for the issue of a collective bargaining certificate, a Trade Union or an employer shall have the right to appeal to the Industrial Court.

(4) Where any particular trade group recognizes more than one Trade Union, on the recommendation by the congress, the relative collective bargaining certificate shall be issued by the Minister in their joint names.

(5) For the avoidance of doubt, a single Trade Union may feature alone or jointly with one or more other Trade Unions in more than a single collective bargaining certificate.

(6) Where two or more trade unions compete for membership in an institution, the union with a simple majority may be allowed to operate alone in that institution.

**Employers not to**

**negotiate with trade**

**union outside**

**trade group 38.** No employer in any trade group shall enter into negotiations **or** have dealings with any other than that trade union referred to in the collective bargaining certificate relative to that trade group.

**Minority unions to**

**make representation**

**to Minister 39.** Minority unions which are not listed in any collective bargaining certificate shall however have the right to make representations to the Minister, and to appeal the decision of the Minister. Minority unions operating in a particular sector shall operate under the existing Trade group agreement of that sector.

**Reference of unsettled**

**industrial disputes to**

**the Commissioner**

**of Labour 40.** Where-

(a) a Trade Group Council fails to reach agreement on any matter provided for in section (32); or

(b) a dispute arises in connection with any matter not covered by a trade group negotiating council agreement, between a trade group or an individual employer within a trade group and a Trade Union holding the appropriate collective bargaining certificate which cannot otherwise be resolved;

(c)The Trade Group Council or in respect of subsection (b) the trade group, the individual employer, or the Trade Union, shall refer the dispute to the Commissioner of Labour for settlement.

**Reference of unsettled**

**industrial disputes to**

**the Industrial Court 41. (1)** If within 42 working days of a reference to the Commissioner of Labour under section (40), conciliation has not been effected, the disputeshall-

1. in the case of the trade groups which are classified as essential under subsection (2) be referred by the Commissioner of Labour to the Industrial Court; and
2. in the case of the trade groups which are not classified as essential, with their consent, be referred by the Commissioner of Labour to the Industrial Court whose decision shall, subject to section (77), be binding upon all the parties concerned.

(2) For the purposes of this section the following public utilities have been classified as essential trade groups-

1. Water Services
2. Energy and Power Services

(c) Health Services

(3) Any breach of the procedure specified in section (69) and any incitement or inducement by any person to such breach of procedure shall be deemed to be unlawful industrial action and may be prohibited by order of the Industrial Court on application of any employer affected by such action.

(4) If a worker who has participated in industrial action in conformity with this Act or has been locked-out by his employer, presents himself for work not more than three working days after the end of the industrial action or Lock-out, the employer shall within a reasonable period, reinstate such Worker in the employment which he held immediately prior to the industrial action or Lock-out.

(5) Nothing contained in this part shall absolve an employer from ensuring that any termination of employment satisfies the requirements of the provisions on termination in the Employment Act 2022.

**Registrar of Trade**

**unions and Employers’**

**Organisation 42. (1)** The Commissioner of Labour shall, after due consultation with the Joint Consultative Committee, appoint any person with relevant experience in industrial relations issues to be the registrar of Trade Unions and Employers’ Organisation

(2) The Registrar shall maintain separate registers of Trade Unions and Employers’ Organisations.

(3) The Registrar shall enter into the register of Trade Unions, all trade unions which before the coming into force of this Act was registered as a Trade Union or employers’ organisation.

**Registration of Trade**

**Union or Employers’**

**Organisation 43. (1)** All applications for the registration of trade unions and employers’ organisation shall be made to the Registrar in the prescribed form and must be signed-

1. In the case of a Trade Union, by at least fifty members of the union; and shall be accompanied by a copy of the constitution of the Trade Union;
2. In the case of an Employers’ Organisation, by at least five members of the organisation; and shall be accompanied by a copy of the constitution of the organisation.

 (2) The Registrar, upon receipt of the application and the constitution referred to in subsection (1), after due consultation with the Joint Consultative Committee, shall cause a notice of the same to be published in the Gazette.

 (3) Upon the expiration of six months from the date of publication of the notice in the Gazette, the Registrar shall consider any objections which have been brought to his notice.

 (4) The Registrar on being satisfied that no objection has been raised and that the union or organisation has complied with the provisions of registration under this Act and that the constitution of the organisation provides for matters prescribed by section (52), shall register such organisation and issue a certificate of registration in the prescribed form to the Union or Employers’ organisation and shall be payable as prescribed in the Second Schedule to this Act.

 (5) A certificate of registration issued under subsection (4) unless proved to have been withdrawn or cancelled shall be conclusive evidence that the provisions of this Act relating to registration have been complied with and that the union or organisation is the union or an organisation of the type stated in the certificate.

**Refusal to register a**

**Trade union or Employers’**

**Organisation 44. (1)** The Registrar shall not register a Trade Union or Employers’ Organisation unless he is satisfied that-

 (a) the applicants have been duly authorised to apply for registration in accordance with section (43), subsection (1) a or b of this bill;

1. the purposes of the Trade Union or Employers’ Organisation are not unlawful; and
2. the provisions of section (47) of this Act have been complied with:

(2) Provided further that the Registrar shall not register a Trade Union or Employers’ Organisation if he is satisfied that any other Trade Union or Employers’ Organisation already registered is sufficiently representative of the whole of the interests in respect of which the applicants seek registration.

(3) And provided further that if the Registrar thinks that there exist reasonable grounds for believing that a Trade Union or Employers’ Organisation already registered is sufficiently representative of the whole or of a substantial proportion of the interests on behalf of which the Applicants seek registration, he shall, by notice in the Gazette or otherwise, inform any registered Trade Unions or Employers’ Organisation which appear to represent the same interests as the applicants of the receipt of their application, and shall invite any registered Trade Union or Employers’ Organisation concerned to submit in writing or otherwise, within a period to be fixed by him, any objections they may wish to make against such registration.

**Misleading names 45. (1)** Except with the consent of the Joint Consultative Committee, the Registrar shall not register any Trade Union or Employers’ Organisation which contains any word which, in the opinion of the Registrar, are deceptive, ambiguous or objectionable in that they contain a reference direct or otherwise to any personage, practice or institution, or is otherwise unsuitable as a name for a Trade Union or Employers’ Organisation.

(2) Where a Trade Union or Employers’ Organisation is already registered and its name contains words which are prohibited under Sub-Section (1) the Registrar shall call upon such Union to change its name within a period of two months and in the event of such Union failing to change its name to the satisfaction of the Registrar it shall be struck off the register.

(3) No union or organisation shall be registered under a name identical with that of any existing organisation or so nearly resembling such name as to be likely to deceive its own members or members of the public.

(4) Where the Joint Consultative Committee on a reference as aforesaid decides that a certain name may be used by a specified Trade Union or Employers’ Organisation such name may be registered in respect of that Union or may be retained by that Union, as the case may be subject to sub-sections 1 and 2.

(5) Where the Registrar refuses to register a union or an organisation, he shall forthwith inform the applicant in writing of the grounds of such refusal.

**Appeal against**

**refusal to register 46.** Any person aggrieved by any refusal of the Registrar to register an organisation may, within thirty days from the day of notification of the refusal, appeal to the Industrial Court whose decision shall be final and the Industrial Court may make any direction as to the costs of the appeal as it thinks it proper.

**Constitution of a Trade**

**union or employers’**

**organisation 47.** The constitution of every registered trade union or employers’ organisation shall include the following-

(a)the name of the Trade Union or employers’ Organisation and the address of its registered office in Sierra Leone;

(b) the principal objects of the Trade Union or employers’ Organisation and the class or classes

of workers or employers which the organisation shall represent;

1. the purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby;
2. the subscription and dues if any to be paid by any member and the fines and forfeitures to be imposed on any member of such Trade Union;
3. The qualification for membership;
4. The organisational structure, the mode of appointment and removal of the officers responsible for the administration of the organisation and the powers and duties of such officers;
5. The payment of subscriptions and fees by the members and the method of collection and the grounds for qualifying a member from voting on any matter concerning the organisation;
6. Provisions for a general meeting open to all members or alternatively to be attended by delegates elected by members on a regional or local level, at least once every two years;
7. A provision that any member or delegate, as the case may be, may propose a resolution or question any officer at a general meeting;
8. The specific grounds on which an officer or member may be suspended or expelled from office or from membership;
9. The procedure for suspension or expulsion from office or from membership, including provision that the affected officer or member shall have a right to a fair hearing and that he shall have the right to appeal;
10. Provision for keeping of full and accurate records by the treasurer or other appropriate officer, for the annual audit of the records of the Trade Union or Employers’ Organisation by a professionally qualified auditor appointed by the organisation, who shall not be a member of that organisation, and for the availability to all members of full audited annual statements of account;
11. Provision for the banking and investment of the Trade Union or Employers’ Organisation funds;
12. Provision for the paying out of the Trade Union or Employers’ Organisation funds, including the authority to sign cheques;
13. The conditions under which a member may become entitled to any financial benefit provided by the organisation;
14. the procedure for altering or amending the constitution of the organisation;
15. the inspection of the register of members and other books of the Trade Union or Employers’ Organisation by any member;
16. the manner of amalgamating with other organisations;
17. the manner of dissolving the Trade Union or Employers’ Organisation
18. he inspection of the books and names of members of the Trade Union or Employers’ Organisation by every person having an interest in the funds of the Trade Union or Employers’ Organisation.

**Trade Unions and**

**organisations seeking**

**registration 48.** Every Trade Union or Employers’ Organisation seeking registration shall apply in accordance with the provisions under this Act.

**Circulation of constitution**

**of registered Trade**

**Unions or Employers’**

**Organisation 49. (1)** Every registered Trade Union or Employers’ Organisation shall, uponrequest, circulate a copy of its current constitution to every person who becomes a member of that Trade Union or Employers’ Organisation.

(2) A copy of the rules shall be delivered by the Trade Union orEmployers’ Organisation to every person on demand on payment of a prescribed fee.

**Alteration of constitution 50. (1)** Every alteration of the constitution of a registered Trade Union or Employers’ Organisation shall be registered with the Registrar. Registration of Alteration of constitution shall be payable as prescribed in the Second Schedule to this Act, and shall take effect from the date of registration unless some later date is specified in the constitution.

(2) An application for registration of an alteration or addition to any provision of the constitution shall be made in such manner as may be prescribed.

(3) The constitution of a registered Trade Union or Employers’ Organisation shall not be altered so that they cease to contain provisions in respect of the several matters under section (50) of this Act.

**Circulating false**

**copies of the constitution 51. (1)** If any person with intent to mislead or defraud gives to any member of a registered Trade Union or Employers’ Organisation or to any person intending or applying to become a member of such Trade Union or employers’ Organisation, a copy of any constitution or of any alteration or amendment of the same other than those respectively which exist for the time being on the pretense that the same are the existing constitution of such Trade Union or Employers’ Organisation, or that there are no other constitution of such Trade Union or Employers’ Organisation, or

(2) if any person with the intent aforesaid gives a copy of any constitution to any person on the pretense that such constitution are the constitution of Trade Union or Employers’ Organisation registered under this Act which is not so registered, every person so offending shall be liable to a fine not exceeding Forty months national minimum wage or to imprisonment for twelve months, or to both such fine and imprisonment.

**Cancellation of certificate**

**of registration 52. (1)** The Registrar may cancel the certificate of registration of a Trade Union or Employers’ Organisation, after due consultation with the Joint Consultative Committee, and shall notify the Union or organisation in writing accordingly, in the following cases-

1. At the request of the Trade Union or Employers’ Organisation to be evidenced in the manner from time to time directed by the Registrar; or
2. on proof to his satisfaction that the registration of the Trade Union or Employers’ Organisation does not meet the requirements of section (43) (whereupon it shall be the duty of the Registrar to cancel the same forthwith); or
3. where he is satisfied that a registered Trade Union or Employers’ Organisation has ceased to exist.

(2) Where the Registrar has cancelled the registration of a Trade Union or Employers’ Organisation under subsection (1) any person aggrieved by such cancellation may, within thirty days from the date of notification thereof, appeal against the decision of the Registrar to the Industrial Court whose decision shall be final and the Industrial Court may make any directions as to the costs of the appeal as it thinks proper.

(3) Where the Registrar is satisfied that a certificate of registration of a Trade Union or Employers’ Organisation has been obtained by fraud or mistake, or that a registered organisation has wilfully and after notice from the Registrar violated any of the provisions of this Act, he shall, subject to the provisions of this section, make application to the Industrial Court for an order that the registration of the organisation be cancelled. In such cases the decision of the Industrial Court shall be final and it may make any order as to the costs of the application as it thinks proper.

(4) Before making application to the Industrial Court under this section, the Registrar shall give at least two months’ previous notice in writing to the Union or Organisation of his intention so to apply and shall state briefly the grounds of the proposed application.

(5) A Trade Union or Employers’ Organisation whose certificate of registration has been cancelled shall from the time of such cancellation absolutely cease to enjoy the privileges of a registered organisation. This is without prejudice to any liability incurred by such organisation, which may be enforced against the same as if such cancellation had not taken place.

**Amalgamation 53.** Any two or more registered Trade Unions or Employers ’organisation may, with the approval in writing to the Registrar, and in the manner provided for in its constitution and subject to the provisions of this Act, amalgamate. Registration of amalgamation shall be payable as prescribed in the Second Schedule to this Act.

**Registration of**

**change of name 54. (1)** A registered Trade Union or Employers’ Organisation may, with the approval in writing to the Registrar, change its name by the consent of not less than two thirds of the members. Registration of change of name shall be payable as prescribed in the Second Schedule to this Act.

(2) No change of name shall affect any right or obligation of the Trade Union or Employers’ Organisation or of any member thereof, and any pending legal proceedings may be continued by or against the trustees of the Trade Union or Employers’ Organisation or any other officer who may sue or be sued on behalf of such Trade Union or Employers’ Organisation notwithstanding its new name.

**Notice of change of name**

**or amalgamation 55. (1)** Notice in writing of every change of name or amalgamation shall be signed, in the case of change of name, by five members and countersigned by the Secretary of the Trade Union or Employers’ Organisation changing its name, and accompanied by a statutory declaration by such Secretary that the provisions of this Act in respect of change of name have been complied with and in the case of an amalgamation it shall be signed by five members, and countersigned by the Secretary of each or every Trade Union or employers’ organisation party thereto, and accompanied by a statutory declaration by each or every such Secretary that the provisions of this Act in respect of amalgamation have been complied with, shall be submitted to the Registrar and registered by him, and until such change of name or amalgamation is so registered the same shall not have effect.

(2) Any registration of notice of change of name or amalgamation shall be payable as prescribed in the Schedule to this Act.

**Membership of minors 56.** A person under the age of 18 years, but above 15years may be a member of a Trade Union or Employers’ Organisation, unless provisions be made in the rules thereof to the contrary, and may, subject to the rules of the Trade Union or Employers’ Organisation, enjoy all the rights of a member except as hereinafter in this section provided, and executed or given under the rules but shall not be a member of the committee of management, treasurer or other officer of the Trade Union or Employers’ organisation.

**Trade unions**

**prohibited from**

**carrying on business**

**unless registered 57. (1)** No Trade Union or any member thereof shall perform any Trade Union activities in furtherance of the purposes for which it has been formed unless such Union has first been registered.

(2) Any Trade Union or any Officer or member thereof who contravenes the provisions of this section shall be guilty of an offence against this Act and shall be liable to a fine not less than twenty-four months national minimum wage.

**Disqualification from**

**election or appointment**

**as officer 58. (1)** No person shall be qualified for election or appointment as an officer of a Trade Union or Employers’ Organisation if he-

(a)has been convicted of an offence involving dishonesty within a period of 5 years preceding the election or appointment;

 (b) is an un-discharged bankrupt;

(c) is of unsound mind;

1. has been suspended under its constitution or under this Act from holding office in the organisation and his suspension has not been revoked, or the period for which he was suspended has not expired;
2. has been expelled from the Trade Union or Employers’ Organisation or has resigned from the Union or Organisation to avoid expulsion and a period of three years has not expired since the expulsion or registration.

(2) An officer of a Trade Union or Employers’ Organisation shall cease to hold office if any circumstances arise which, were he not an officer, would disqualify him under subsection (1) from election as an officer.

(3) The Registrar may call for such documentation and information as the Registrar may think necessary from the executive committee or any officer of a Trade Union or Employers’ Organisation in order to ensure that the provisions of this section are being complied with.

(4) Any person who, being disqualified under this section to hold office in a Trade Union or Employers’ Organisation, acts or purports to act as an officer of that Trade Union or Employers’ Organisation shall be guilty of an offence and liable to a fine not less than twenty four months national minimum wage and in addition may be prohibited from holding office in any organisation for a period not exceeding twenty-four months.

**Injunction against**

**officer of a trade union**

**or employers’ organisation 59. (1)** Any member of a trade union or employers’ organisation or the Registrar may apply to the Industrial Court for an injunction prohibiting an officer of the Trade Union or Employers’ Organisation from holding office or dealing with funds of the organisation.

(2) On an application made under subsection (1) the Industrial Court may, if it is satisfied that such officer is disqualified under section (58) from holding office in that Trade Union or Employers’ Organisation or that there is a reasonable case against such officer for the fraudulent misuse of the organisation’s funds, grant such application and make the necessary order.

**Annual returns 60.** (1) Treasure and other officers to account –

(a) Every treasurer or other officer of a registered trade union at such times as by rules thereof he should render such accounts as hereinafter mentioned, or having been required so to do, shall render to the members thereof, at a meeting of the trade union, a just and true account of all moneys received and paid by him since he last rendered the like account, and of the balance then remaining in his hands, and of all bonds and securities of such trade union.

(b) Such account shall be audited by some fit and proper person or persons to be appointed by the trade union approved by the Registrar.

(c) Upon the accounts being audited the treasurer or other officer as the case may be shall, if thereupon required, handover to the trade union the balance which on such audit appeared to be due from him and shall also, if required, handover to the trade union all the securities and effects, books, papers, and property of the said trade union in his hands or custody.

(d) If the treasurer fails to hand over such things and documents as in sub-sections 1(c) required, the committee of management of the trade union, or any member for and on behalf of the trade union, may sue the treasurer or other officer as the case may be in any competent court for the balance appearing to have been due from him upon the account last rendered by him, and for all the moneys since received on account of such trade union or branch thereof, and for the securities and effects, books, papers and property in his hands or custody, leaving him to set off in such action the sums, if any, which he may have since paid on account of such trade union, and in any such action the plaintiff shall be entitled to recover full-costs of suits to be taxed as between solicitor and client.

(2) No later than three months after the expiry of a Trade Union or employers’ organisation financial year, any registered Trade Union or employers’ Organisation shall furnish the Registrar with the information specified in this section.

(3) The information referred to in subsection (1) shall be-

1. fully the assets and liabilities at the date, and the receipts and expenditure during the year proceeding the date to which it is made out, of the Trade Union or Employers’ Organisation;
2. separately the expenditure in respect of the several objects of the Trade Union or Employers’ Organisation

(4) Such statement shall be prepared and made out up to such date, in such form, and shall comprise such particulars, including particulars of membership and changes therein, as the Registrar may from time to time require.

(4) Every member of, and depositor in, any such Trade Union or Employers’ Organisation shall be entitled to receive, on application to the treasurer or Secretary of that Trade Union, a copy of Such general statement, without making any payment for the same.

(5) Together with such general statement there shall be sent to the Registrar a copy of all alterations of constitution and new constitution and changes of Officers made by the Trade Union or Employers’ Organisation during the year preceding the date up to which the general statement is made out, and a copy of the constitution of the Trade Union or Employers’ Organisation as they exist at that date.

 (6) A note of the number of members of the organisation at the commencement of that year; and

 (7) A note of any alteration in the constitution of the organisation coming into operation in the calendar year preceding the date the information is given.

 (8) Every registered Trade Union or Employers’ Organisation which fails to comply with or acts in contravention of this section and also every Officer of the Trade Union or Employers’ Organisation so failing, shall each be guilty of an offence and liable to a fine not exceeding twenty five months national minimum wage.

(9) Any person who wilfully makes or orders to be made any false entry in or any omission from any such general statement, or in or from the return of such copies of constitution or alterations of constitution, shall be guilty of an offence and liable to a fine not less than twenty four months national minimum wage.

**Inspection and**

**audit of accounts 61. (1)** Every registered trade union or organisation shall transmit to the Registrar the account prepared and audited within six months of its submission to the members of the trade union or organisation.

(2) Every officer of a registered organisation which fails to comply with the provision of this section shall be guilty of an offence and liable to a fine not less than thirty months national minimum wage.

**Registrar may call**

**for accounts 62. (1)** In addition to the provisions of this Act relating to the rendering of accounts, the Registrar may at any time call upon the treasurer, committee of management or other proper Officer of a registered Trade Union or Employers’ Organisation to render detailed accounts of the funds of the Trade Union or Employers’ Organisation in respect of any particular period; such accounts shall show in detail such information as the Registrar may require.

(2) Every Trade Union or Employers’ Organisation whose duty it is under this section to render or assist in rendering the account referred to in Sub-Section (1) upon failing or neglecting without lawful excuse to render such account or assist in the rendering of such account, shall be guilty of an offence against this Act and be liable to a fine not less than twenty five months national minimum wage.

(3) Where any Trade Union or Employers’ Organisation fails to comply with any of the requirements specified in subsection (1) of this section, the Registrar may apply to the Industrial Court which, if satisfied that the failure has occurred, shall order the person concerned to comply with the requirement and failure to comply with such order shall be treated as contempt of Court.

(4) Where, in consequence of any examination or audit of any account under the provisions of this section, it appears that any criminal offence has been committed or any failure to satisfy any provision of this Act has occurred or that any monies due to the organisation are outstanding, the Trade Union or Employers’ Organisation having failed to take adequate steps to secure payment of such monies, the Registrar may, if it appears expedient to do so for the benefit of the members of the Trade Union or Employers’ Organisation, institute criminal proceedings or civil proceedings for the recovery of such monies. Such proceedings shall be instituted on behalf of and in the name of the Trade Union or Employers’ Organisation but shall be conducted at the expense of the trade union or organisation.

(5) A copy of the accounts submitted to the Registrar under the provisions of this section certified by or on behalf of the Registrar as acceptable shall, when such accounts have been accepted by the Registrar, be made available at the registered office of the Trade Union or Employer’s Organisation for inspection by any member of the Trade Union or Employers’ Organisation on reasonable request.

**Trade unions or employers’**

**organisations to submit**

**delegate conference**

**Calendar 63. (1)** Trade Unions or Employers’ Organisations shall furnish the office of the registrar the calendar of their delegate conferences 6 months before the expiration of the term of office of the current executive.

(2)Any trade union or employers’ organisation, who fails to comply, after three months’ notice to do so by the Registrar, shall be liable to a fine not less than twelve months national minimum wage.

(3) It will be an offence for any executive to continue to be in office after expiration of their term of office, except on force majeure.

(4) Penalty for failure to abide shall be liable to a fine not less than 12 months national minimum wage.

**Penalty for failure**

**to give notice 64.** Any registered Trade Union or employers’ organisation which fails to give any notice or send any document which it is required by this Act to give or send, and every officer or other person bound by the rules thereof to give or send the same, or if there be no such officer, then every member of the Committee of management of the Union, unless proved to have been ignorant of, or have attempted to prevent the omission to give or send the same, shall be liable to a fine not less than twenty months national minimum wage recoverable at the suit of the Registrar, or of any person aggrieved, and to an additional fines of 6 months national minimum wage for each week during which the omission continues.

**Notice for withdrawal**

**of Membership 65.** Only workers who signed union check-off forms shall be obliged to give notice to a Trade Union secretary for withdrawal of membership.

**Regulations**

**by registrar 66.** The Registrar, in consultation with the Joint Consultative Committee, may make regulations to facilitate the operations of Trade Unions and Employers’ Organizations and shall publish such regulations in the Gazette.

**PART VII- INDUSTRIAL ACTIONS AND TRADE DISPUTE SETTLEMENT PROCEDURES**

**Notice of intention**

**to strike 67. (1)** For the conduct of industrial strike action, 21 days written notice of intention to strike shall be given to the concerned employer and the Minister responsible for Labour.

(2) Any aggrieved and unionised workers/workers who have given notice of intention to strike may do so only after the expiration of twenty-one (21) days from the date of the notice and not at any time before the expiration of that period.

(3) A party to an industrial dispute shall not resort to a strike during the period when negotiation or mediation processes are in progress.

(4) Any aggrieved and unionised workers/workers who intend to go on strike shall channel their intention through a Union Secretary General of a registered trade union with a bargaining certificate.

(5) The notice shall be suspended, upon the commencement of a dialogue after the issuance of a twenty-one days’ notice of intention to strike

(6) Any aggrieved and unionised workers or workers who contravene this section shall be responsible for any damage, loss or injury suffered by any other party to the dispute.

**Lock-out 68. (1)** In the case of a Lockout, Employers shall notify the Ministry of Labour within 24 hours.

(2) When a lockout occurs, workers shall also inform their union representatives or the Ministry of Labour.

**Action in breach**

**of procedure 69.** An industrial action which is in breach of this Act or a collectively agreed procedure for the settlement of Industrial Disputes applicable to the trade dispute in question, and which provides expressly or impliedly that the collectively agreed procedure shall be exhausted before industrial action is taken, shall be deemed to be unlawful industrial action and may be prohibited by order of the Industrial Court.

**Jurisdiction over**

**claims 70. (1)** The Commissioner of Labour shall have jurisdiction to hear, attempt to settle by conciliation, and decide complaints-

1. by any person alleging an infringement of any provision of this Act; and
2. by either party to a contract of employment alleging that the other party is in breach of obligations owed under that contract.

(2) In the case of finding an infringement of the Act, the Commissioner of Labour shall have the power to order a party to comply with the provisions of this Act and, in accordance with its provisions, to put the disadvantaged party back into the position it would have been prior to the breach of this Act and to award further compensation on a basis it considers just and equitable.

(3) In the case of finding a breach of obligations owed under a contract of employment, the Commissioner of Labour shall have the power to order a party to respect the obligations owed and, in accordance with the terms of the contract, to put the disadvantaged party back into the position it would have been prior to the breach of this Act and to award further compensation on a basis it considers just and equitable.

(4) Where the Commissioner of Labour has found both an infringement of the Act and a breach of obligations owed under a contract of employment, the remedy he orders shall not be such as to result in double recovery for the aggrieved party, unless provided under this Act.

(5) The jurisdiction of the Commissioner of Labour under subsection (2) shall not extend to any claim in tort arising out of the employment relationship; such a claim may be brought before a court of ordinary jurisdiction.

 (6) Where, within 30 days of the submission of a complaint under this Act to the Commissioner of Labour, he has not issued a decision on the complaint or dismissed it, the complainant may pursue the claim before the Industrial Court.

(7) The Commissioner of Labour shall state the reasons for any decision taken on a complaint.

**Alternative Dispute**

**Resolution.** **71.** (1) Without prejudice to the considerations of the Ministry responsible for labour, the parties to a trade dispute may decide to adopt any other form of dispute resolution.

(2) In all trade disputes or industrial matters commencing by writ of summons, the parties shall before the commencement of trials be subject to alternative dispute resolution.

(3) A Judge of the Industrial Court may recommend mediation to the parties in trade dispute.

**PART VIII – THE INDUSTRIAL COURT**

**Establishment and**

**composition of the**

**Industrial Court 72. (1)** There is hereby established an Industrial Court which shall be a court of record for the settlement of trade disputes in accordance with the provisions of this Act and the rules and practice of the Industrial Court.

(2) The Industrial Court shall expeditiously hear, inquire into and investigate every dispute and all matters affecting the merits of such dispute before it and, without limiting the generality of the foregoing, shall in particular hear, receive and consider submissions, arguments and evidence made, presented or tendered.

(a) by or on behalf of the employer or worker concerned.

(3) The Industrial Court shall consist of the following members:

1. a President;
2. a Vice-President; and
3. 3 assessors.

(3) The President and the Vice-President shall be appointed by the Chief Justice, in consultation with the Judicial and Legal Commission, from among Lawyers of at least fifteen years continuous professional experience.

(4) A representative from each of the tripartite constituents with at least ten years technical working experience in labour and industrial matters shall be nominated to serve as assessors in the Industrial Court.

(5) The members of the Industrial Court, other than the President and Vice-President, shall hold office for a period of five years on such terms and conditions as the Chief Justice in consultation with the Judicial Service may determine.

(6) For the purpose of carrying out it functions, the Industrial Court shall be constituted of either:

(a) The President

(b) Vice-President or

(c) Any judge of the Industrial and Social Security Commission

provided that in the absence of the President, the Vice-President shall preside.

(8) Subject to any rules made by the Chief Justice, the Industrial Court shall for the purposes of exercising its functions have the same powers, rights and privileges as the High Court and shall have power to make its own rules and practice direction.

(9) The Industrial Court shall not be bound by the rules of evidence in civil or criminal proceedings, and the main object of the Industrial Court shall be to do substantial justice between the parties before it based on its own rules.

(10) The Industrial Court may appoint persons with expert knowledge to assist it in an advisory capacity in proceedings where it appears to the Industrial Court that the expert knowledge is required for a proper determination of the proceedings, but the Industrial Court may not be bound by any advice tendered by such persons.

**Appointment of the**

**registrar and other officers**

**of the Industrial Court 73 (1)** There shall be a Registrar and Deputy Registrar who shall be public officers and who shall be appointed by the Judicial and Legal Service Commission.

(2) The Public Service Commission may appoint such other officers of the Industrial Court as may be necessary.

**Jurisdiction of the**

**Industrial Court 74. (1)** The Industrial Court shall have jurisdiction-

1. To inquire into and make awards and decisions in collective disputes and any other matters under this Act;
2. To interpret the terms of awards or collective bargaining agreements or terms and conditions of service;
3. Generally, to inquire into and adjudicate upon any matter affecting the collective rights, obligations and privileges of Workers, employers and representative organisations thereof or any matter relating to industrial relations;
4. To commit for contempt any person who disobeys or unlawfully refuses to carry out or to be bound by any order made against him by the Industrial Court under this Act;
5. To perform such acts and carry out such duties as may be prescribed under this Act, the Employment Act or any other enactment.

(2) In this section “dispute” shall include differences concerning employment contracts between an employer and a worker arising from terms and conditions of service of Workers.

(3) The Industrial Court shall have the jurisdiction to hear and determine any dispute between an employer and a worker notwithstanding that such dispute is not connected with a collective agreement or other Trade Union matter.

(4) In reaching any decision or in making any award relating to wages and conditions of employment, the Industrial Court shall inform itself regarding the Government’s declared policy on prices and incomes, but may not be bound by such policies.

(5) An award, decision or judgement of the Industrial Court on any matter referred to it for its decision or any matter falling within its exclusive jurisdiction shall, subject to section (77), be final and binding upon the parties to the matter and any parties affected thereby.

(6) An award shall come into force upon such date, as the Industrial Court may decide.

(7) In addition to the above, the jurisdiction of the Industrial Court shall cover all categories of workers in the public and private sector.

**Power of the Industrial**

**Court to submit questions**

**of law 75.** The Court may, if it thinks fit, submit any question of law of the decision of the High Court. Such submission shall be in the form of a special case in accordance with rules made under the provisions of this Act.

**Appeals 76. (1)** An employer or worker who is dissatisfied with the decision of the Commissioner of Labour on a complaint made under this Act may appeal to the Industrial Court.

 (2) The Industrial Court shall have power to hear an appeal under this Act, and to confirm, modify or overturn any decision from which appeal is taken.

(3) The Industrial Court shall, in disposing of appeals arising under this Act, give its judgment in writing, and shall give reasons for any decision(s) reached.

(4) An appeal against an award or order of the Industrial Court shall lie to the Appeal Court upon a point of law or if the Industrial Court has exceeded its jurisdiction.

(5) No appeal shall lie after the expiration of fourteen working days from the date of the order of the Court. Provided that the Appeal Court may, if it deems fit, extend the time for appealing under the provisions of this section notwithstanding that the time for appealing has elapsed.

**Penalty for breach**

**of conditions of award 77. (1)** Any person bound by an award who willfully commits any breach of, or fails to observe any condition of the award shall be guilty of an offence and liable-

1. In the case of a Trade Union or Employers’ Organisation, to a fine not less than thirty six months national minimum wage;
2. In the case of an employer, to a fine not exceeding thirty six months national minimum wage;
3. in the case of a worker, to a fine not exceeding two months national minimum wage

(2) Where in any proceedings against an employer under the provisions of this section it appears to the Industrial Court that a worker employed by that employer has not been paid the amount to which he is entitled under the award, the Industrial Court may, in addition to imposing any other penalty, order that the employer shall pay to the Worker such sum as is found by the Industrial Court to represent the difference between the amount which ought to have been paid to the Worker if the award had been complied with and the amount actually paid to the Worker.

**Prevention of persons from**

**acting in accordance**

**with terms of award 78. (1)** No person shall during the currency of an award-

(a) advise, encourage or incite a member of a trade union or employers’ Organisation bound by the award or any other person bound by the award to refrain from, or prevent or hinder such a member or such other person from-

(i) entering into a written agreement;

(ii) accepting employment; or

(iii) offering himself or herself for work or

 working in accordance with the award;

(b) advise, encourage or incite such a member or other person from complying with the award;

(c) prevent or hinder such a member or other person from complying with the award;

(d) advise, encourage or incite such member or other person to retard, obstruct or limit the progress of work to which the award applies; or

(2) In a prosecution for a contravention of this section it shall be a defence to prove that the reason for the conduct charged-

1. was unrelated to the terms and conditions of employment prescribed by the award; or
2. was related to a failure by an employer to observe the award.

(3) any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding thirty months national minimum wage.

**Prosecution of offences 79.** All offences under this Act shall be prosecuted, and all fines under this Act shall be recovered in the Industrial Court.

(2) any proceedings under this Act, it shall be sufficient in the charge or information to allege that the workplace is a workplace within the meaning of this Act and to state the name of the ostensible occupier of the workplace or, where the occupier is a firm, the title of the firm; and the burden of proving that the premises are not a workplace, or that the occupier specified in the charge or information is not the occupier of the workplace, shall lie upon the person alleging such fact.

**Representation of parties 80. (1)** At any hearing before the Industrial Court, any party may appear in person or be represented-

1. by any officer of a trade union or of an employers’ organisation;
2. by an officer of the Congress or of the Federation; or
3. by a legal practitioner.

(2) Where the Government is a party to any proceedings before the Industrial Court, the Government may be represented by the Attorney General or by any other person authorised by the Attorney General for that purpose.

**Costs 81. (1)** No costs shall be awarded by the Industrial Court except against a party held by it to have acted frivolously or vexatious, or with deliberate delay in bringing or defending its proceedings.

(2) The tariff of costs laid down from time-to-time under the Rules of the High Court shall apply to the costs awarded by the Industrial Court.

**Rules of the**

**Industrial Court 82.** The Chief Justice may make rules for regulating the practice and procedure to be followed in any proceedings before the Industrial Court under the provisions of this Act.

**PART IV - RULES AND REGULATIONS, CRIMINAL LIABILITIES, PENALTIES AND REPEALS**

**Rules and**

**Regulations. 82. (1) The** Minister may from time to time, by statutory instrument, make rules and regulations for giving effect to this Act and in particular but without prejudice to the generality of the foregoing power with respect to-

(a)registration of trade unions and employers’ organisation under this Act

(b) the seal, if any, to be used by the registrar for the purpose of registration under this ordinance;

(c) the forms to be used for such registry;

(d) the inspection of registers and documents kept by the registrar and the making of copies of any entries therein;

(e) the fees to be charged for registration, inspection and any other service or matter prescribed or permitted by this Act; and

(f) generally for carrying this Act into effect

(2) Unless and until amended, varied or revoked by the Minister the rules set out in the **third schedule** hereto shall have effect as if they had been duly made under this section.

**Criminal liabilities 84. (1)** Nothing in this Act and no imposition of a disciplinary penalty for a breach of the disciplinary code shall exempt any person from being proceeded against, convicted or punished for a criminal offence.

(2) Nothing in any other law prohibiting or restricting the punishment of a person twice for the same offence shall apply in relation to the imposition of a disciplinary penalty by an Employer.

(3) In an offence under this Act, it shall be for the prosecution to establish that any wilful act or omission which allegedly constitutes the conduct giving rise to liability was done knowingly or unknowingly on the part of the accused, and the failure of the prosecution to show such knowledge shall constitute grounds for acquittal of the accused.

**Penalties 85. (1)** The Minister may by regulation and after consultation with the Joint Consultative Committee, vary the financial penalties for the commission of any offence under this Act.

(2) Any person or employer, organisation/institution or business establishment who commits an offence in contravention of this Act for which no penalty is expressly provided shall be liable to a fine not less than thirty months national minimum wage. In the case of a second or subsequent offence against the same provision of this Act, the offender shall be subject to a fine not less than forty months national minimum wage.

(3) Where a person or employer, organisation/institution or business establishment acts in contravention of any provisions of this Act not specifically designated as an offence, the Commissioner of Labour may caution him in writing against repeating or continuing such behaviour. If, having received such written warning, the employer repeats the infringement; he commits an offence and shall be liable to a fine not less than thirty months national minimum wage. In the case of a second or subsequent offence against the same provision of this Act, such employer shall be subject to a fine not less than 40 months national minimum wage.

**Repeals 86. (1)** The following enactments are hereby repealed-

1. The Regulation of Wages and Industrial Relations Act No. 18 of 1971
2. The Trade Disputes (Declaration of Law) Act Cap, 222
3. The Trade Union Act Cap 221

(2) Notwithstanding subsection (1), any rules, regulations, orders, notices, prescription and other instruments or directives issued under the repealed Acts and in existence immediately before the commencement of this Act, shall continue in operation until their expiration or until their express repeal or revocation or cancellation.

(3) All investigations, prosecutions and other legal proceedings instituted or commenced under the repealed Acts and which have not been concluded before the commencement of this Act, shall be continued and concluded in all respects as if that Act had not been repealed.

**SCHEDULES**

**FIRST SCHEDULE (SECTION 15)**

**JOINT NATIONAL NEGOTIATING BOARD**

**Joint national**

**negotiating board 1. (1)** The Joint National Negotiating Board shall consist of nine members nominated by the Congress and nine members nominated by the Federation.

(2) The Chairperson, Vice-chairperson and other members of the Joint National Negotiating Board shall hold office for two years from the date of their respective appointments but shall be eligible for reappointment.

(3) The Chairperson, vice-chairperson shall be appointed by the Minister responsible for labour from amongst the members constituting the Joint National Negotiating Board, So however that one of these two offices shall be filled by a nominee of the Congress and the other by a nominee of the Federation.

(4) At the expiration of two years, the chairperson and vice-chairperson shall alternate their official roles, the chairperson becoming the vice-chairperson and vice versa.

(5) When the chairperson or vice-chairperson or any other member of the Joint National Negotiating Board is for good reason temporarily unable to perform his functions and until such time as the Minister appoints some other person to act for the chairperson or the vice-chairperson or any other member, the Joint National Negotiating Board may appoint a person so to act.

(6) The Joint National Negotiating Board may appoint such number of persons as it deem fit as assessors. Assessors shall be persons, who, in the opinion of the Joint National Negotiating Board have as expert knowledge of any of the matter with which the Joint National Negotiating Board enquiry is concerned.

(7) An assessor shall not vote or otherwise be a party to any report or recommendation of the Joint National Negotiating Board.

(8) The Minister shall appoint a secretary and such other officers as he deem fit to the Joint National Negotiating Board. Such secretary and other officers shall not be members of the Joint National Negotiating Board.

(9) The quorum at any meeting of the Joint National Negotiating Board shall be ten members, so however that the number of members representing the congress is equal to the number of members representing the federation.

(10) The chairperson shall have only one vote at any meeting of the Joint National Negotiating Board

(11) Every member of the joint national negotiating Board shall have one vote. If at any meeting of the board the number of members representing employers and workers is unequal the side which is in the majority shall arrange that one or more of its members shall refrain from voting so as to preserve equality.

(12) The Joint National Negotiating Board may, if it thinks fit, delegate any of its powers except its powers under section (16) of this act, to a committee consisting of members from either side, so however that the members of the committee representing employers and members of the committee representing workers shall be equal in number.

(13) The Minister may make rules providing for-

1. The filling of vacancies on the Joint National Negotiating Board caused by death, resignation or absence from Sierra Leone of any member of the Joint National Negotiating Board;
2. The fixing of rate of remuneration and expenses to be paid to any member of a Joint National Negotiating Board;
3. The conduct of meetings of the Joint National Negotiating Board.

 (14) Subject to the provisions to this act and to any rules so made, the Joint National Negotiating Board may regulate its procedure in such manner as it thinks fit.

(15) There shall be paid to members and assessors of the Joint National Negotiating Board such remuneration, such travelling and other allowances as the minister may approve and all such remuneration and allowances shall be paid out of funds provided by parliament.

**SECOND SCHEDULE (SECTION 43, 50, 53, 54, 55)**

**PAYABLE FEES FOR TRADE UNIONS AND EMPLOYERS’ ORGANISATIONS**

**The following fees shall be payable -**

(a) For the certificate of registration of a Trade Union or Employers’ Oganisation …. four months national minimum wage

(b) For the certificate of registration of an alternation of constitution …………… one months national minimum wage

(c) For the certificate of registration of a change of name ………………… one months national minimum wage

(d) For registration of notice of a dissolution …………………………………... one months national minimum wage

(e) For registration of amalgamation …………………………………………….. four months national minimum wage

(f) For every document required to be authenticated by the Registrar, not chargeable with any other fee ……………… one months national minimum wage

(g) For every inspection on the same day of documents (whether one or more), in the custody of the Registrar, relating to one and the same Trade Union or Employers’ Organisation …………… one months national minimum wage

(i) For every copy or extract of any document in the custody of the Registrar, not exceeding 216 words ……………… one months national minimum wage

(j) If exceeding 216 words, per folio of seventy-two words or part thereof ………………. two months national minimum wage

 **The above fees are in addition to the fee for authentication.**

 **No fee is payable for the registration or recording of-**

(a) The cancellation of certificate of registration

(b) Any notice of change of registered Office

(c) Any document or copy of document supplied to the Government

(d) Any document in respect of which a fee is already chargeable under or by virtue of this Act or any other Act.

**THIRD SCHEDULE**

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No…..**

**FORM A**

**Application for Registration of Trade Union or Employers’ Organisation**

1. This application is made by the prescribed number of persons whose names are subscribed at the foot hereof.
2. The name under which it is proposed that the union or organisation on behalf of which this application is made shall be registered is ……………………………………………………… as set forth in rule No: ……………………………

To the best of our belief there is no registered union or organisation with the name of which is identical with the proposed name or so nearly resembles the same as to cause confusion.

1. The office of the …………………………………….. to which all communications and notices may be addressed, is as …………………………………………. as set in forth rule No: …………………………………………………..
2. The ……………………………………………. Was formed on the …………………………. day of ……….…………………..
3. The whole of the objects for which the …………………………………… is formed and the purposes for which the funds thereof are applicable are set forth in rule No: ……………
4. The condition under which members may become entitled to benefits assured are set forth in rule No: ……………………………………
5. The subscription and dues to be paid by members are set forth in rule No: …………………………………..
6. The fines and forfeitures to be imposed on members are set forth in rule No: ………………………………
7. The manner of making, altering, amending, and rescinding rules is set forth in rule No: ………………..
8. The provision for the appointment and removal of a general committee of management, of treasurer and other offices is set forth in rule No: …………………………
9. The duties of the members of the managing committee and officers are set forth in rule No: ............
10. The provision for the investment of funds and for the periodical audit of accounts is set forth in rule No: ………………….
11. The provision for the inspection of the books and names of the members by every person having an interest in the funds is set out in rule No: ……………………….
12. The provision for the manner of dissolving the union or organisation is set forth in rule No:………………………..
13. Accompanying this application are sent-
14. Two printed copies, each marked A, of the rules
15. A list, marked B, of the titles and names of the officers.

Signed

1. …………………………………………………………………………………………………………………………….

 2. …………………………………………………………………………………………………………………………….

 3. …………………………………………………………………………………………………………………………….

 4. …………………………………………………………………………………………………………………………….

 5. …………………………………………………………………………………………………………………………….

(In the case of trade union, 50 Members shall sign the application form bearing their bio data)

Dated this ………………………………. day of ……………………………………………… 20………………………….

TO THE REGISTRAR OF TRADE UNIONS AND EMPLOYERS’ ORGANISATION, FREEETOWN

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No….**

**FORM B. (SECTION 41, SUBSECTION 4)**

**CERTIFICATE OF REGISTRATION OF TRADE UNION OR EMPLOYERS’ ORGANISATION**

It is hereby certified that the ……………………………has been registered under the Industrial Relation and Trade Unions Act this …………………………day of ………………………….20…………….

 ……………………………………………………………..

Seal and/ or Signature of Registrar

……………………………………………………………………………………………………………………………………………………

Name of Union or Organisation

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No……..**

**FORM C.**

**APPLICATION FOR REGISTRATION OF PARTIAL ALTERATION OF RULES**

Trade Union or Employers’ Organisation.

Register No.

This application for the registration of a partial alternation of the rules of the ………………………… union or organisation is made by the prescribed number of members of the union or organisation whose names are subscribed at the foot hereof.

With this application are sent-

1. A printed (or typed) copy of the registered rules marked to show where and in what way they are altered;
2. Two printed (or typed) copies of the alteration, each marked O, signed by each of the applicants;
3. A statutory declaration of an officer of this trade union, that in making the alteration of rules now submitted for registration of the rules of the …………………………………………………..Union or organisation were duly complied with.

We have been duly ………. by the …………………. Union or organisation to make this application on its behalf, such authorization consisting of a …………………..passed as a general meeting on the ………………….. day of ……………………………………..20…………………………

Signed:

1. }

2. }

3. } Members

4. }

5. }

(In the case of trade union, 50 Members shall sign the application form bearing their bio data)

Dated this …………………day of ……………………………..19……………………….

TO THE REGISTRAR of TRADE UNION AND EMPLOYERS’ ORGANISATION,

FREETOWN

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No……….**

**FORM D**

**DECLARATION ACCOMPANYING ALTERATION OF RULES**

Trade Union or Employers’ Organisation.

Register No.

I ………………….of …………………………an officer of the above-named union or organisation, do solemnly and sincerely declare that in making the alteration of the rules of the trade union, application for the registration of which is appended to this declaration, the rules of the said union or organisation have been duly complied with.

And I make this solemn declaration, conscientiously believing the same to the true, and be virtue of the provisions of the statutory Declarations Act, 1835

Taken and received before}

Me, etc. }

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rules No…………**

**FORM E.**

**CERTIFICATE OF REGISTRATION OF PARTIAL ALTERATION OF RULE**

Trade Union or Employers’ Organisation.

Register No.

It is hereby certified that the foregoing partial alteration has been registered under the Trade

Unions ordinance this ………………….…….day of ……………………..20 ………………….

 ……………………………………………………………………….

 Seal and/ or Signature of Registrar.

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No…..**

**FORM F.**

**APPLICATION FOR REGISTRATION OF COMPLETE ALTERATION OF RULES**

Trade Union or Employers’ Organisation.

Register No.

1. This application for the registration of a complete alteration of the registered rules of the ……….. Union or Organisation is made by the prescribed number of members of the union or organisation whose names are subscribed at the foot hereof.
2. The complete alteration submitted for registration is the substitution of the set of rules, two printed copies of which (each copy marked P, and signed by the applicants) accompany this application, for the set of rules already registered.
3. The office to which all communications and notices may be addressed, is at ………….as set forth in rule No…………………………………
4. The……………………………was registered on the…………………day of ……………………….20………….
5. The whole of the objects for which the…….……….is established, and the purposes for which the funds thereof are applicable, are set forth in rule no…………………………
6. The conditions under which members may become entitled to benefits assured are set forth in rule No…………………………………………..
7. The subscriptions and dues to be paid by members are set forth in rule No………………………….
8. The fines and forfeitures to imposed on members are set forth in rule No……………………………
9. The manner of making altering amending and reacting rules is set forth in rule No………………
10. The provision for the appointment and removal of a rental committee of management of

treasure and other officers, is set forth rule No…………………………………

1. The provision for the appointment funds and for the persons audit of accounts is set forth in rule No………………………………………………
2. The provision for the inspection of the books and names of the members by every person having an interest in the funds is not forth in rule No…………………………
3. The provision for the manner of dissolving the trade union is set forth in rule No…………….
4. The application is accompanied by a declaration of ……..an officer of the said trade union, to the effect that in making the alteration of rules now submitted for registration the rules of the trade union were duly complied with.
5. We have been duly authorized by the…………….to make this application on its behalf such authorization consisting of a resolution passed at a general meeting held on the……………………day of ………………..20……………….

Signed:

1. }

2. }

3. } Members

4. }

5. }

( In the case of trade union, 50 Members shall sign the application form bearing their bio data)

Dated this …………………day of ……………………………..19……………………….

TO THE REGISTRAR of TRADE UNION AND EMPLOYERS’ ORGANISATION,

FREETOWN

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No…..**

**FORM G.**

**CERTIFICATE OF REGISTRATION OF COMPLETE ALTERATION OF RULES**

Trade Union or Employers’ Organisation.

Register No.

It is hereby certified that the set of rules, copy whereof is appended hereto, has been registered under the Industrial Relation and Trade Union Act in substations of the set of rule already registered for the ………..Union or Organisation this ………day of …………..20………………..

 ………………………………………………………………..

 Seal end/ or signature of Registrar.

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No…..**

**FORM H.**

**NOTICE BEFORE CANCELLATION OF CERTIFICATE OF REGISTRATION**

Trade Union or Employers’ Organisation.

Register No.

Notice is hereby given to the above-mentioned union or organisation that it is the intention of the Registrar to proceed on the …………………………………….day of …………..20……………….. to cancel the registration of the union or organisation, unless cause be shown to the contrary in the meantime.

 The ground of such proposal cancellation is that the certificate of registration has been obtain by fraud (or mistake), or that the registration of that union or organisation has become void under the provisions of the Industrial Relation and Trade Union Act in respect of cancellation of certificate of registration, or that the trade union willfully and after notice from me violated the provisions of the Industrial Relation and Trade Union Act, or has ceased to exist. (the facts should be briefly specified where practicable.)

Dated this …………day of ………………….20……….

 ……………………………………………………………………………….

 Seal end/ or signature of Registrar.

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No…**

**FORM I.**

**CANCELLATION OF CERTIFICATE OF REGISTRATION**

Trade Union or Employers’ Organisation.

Register No.

The certificate of registration of the above-mentioned union or organisation is hereby cancelled. (The Registrar may, if he deems fit, add a statement as in Form U of the ground of the cancellation.)

Dated this …………day of ………………….20……….

 ………………………………………………………………..

 Seal end/ or signature of Registrar.

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No….**

**FORM J.**

**NOTICE OF CHANGE OF REGISTRATION OFFICE**

Trade Union or Employers’ Organisation

Register No.

TO THE REGISTRAR OF TRADE UNIONS AND EMPLOYERS’ ORGANISATION.

Notice is hereby given that the registered office of the above-mentioned trade union has been

removed from ……………………….in……………………..to……………………….in…………………………………

Dated this ……………………………..day of ………………………………..20…………………..

 }*Committee*

*}of*

*}Management*

Received this ……………….day of ……………………notice of removal of the registered office of the

…………..Register No………………………………to ……………………….in ………………………..

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No…**

**FORM K.**

**APPLICATION FOR APPROVAL, AND NOTICE OF CHANGE OF NAME**

Name already registered…………………………………..

Registered No…………………………………………………..

TO THE REGISTRAR OF TRADE UNIONS AND EMPLOYERS’ ORGANISATION, FREETOWN

Application for approval of change of name of the above-mentioned union or organisation is hereby made by the ……………………persons whose names are subscribed at the foot hereof.

The following is a copy of a resolution passed by the consent of two thirds of the total number of members of the union or organisation—

 {The resolution to be copied at length}

And notice of the said change is hereby given for registration in your office.

 ………………………………………………..

 Secretary

Dated this …………………………day of ………………….20…………………

Signed:

1. }

2. }

3. } Members

4. }

5. }

( In the case of trade union, 50 Members shall sign the application form bearing their bio data)

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No….**

**FORM L.**

**DECLARATION TO ACCOMPANY APPLICATION FOR APPROVAL OF CHANGE OF NAME**

Name of the union or organisation …………………………………..

Registered No……………………………………………………………………

I ………………………………………..of ……………………………..the secretary of the above-mentioned union or organisation, do solemnly and sincerely declare that in making the change of name, notice of which is appended to this declaration, the provisions of the Industrial Relation and Trade Union Act in respect of change of name, have been complied with.

And I make this solemn declaration conscientiously the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Taken and received before}

Me, etc. }

 …………………………………………………..

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

Rule No…

FORM M.

**NOTICE OF DISSOLUTION OF TRADE UNION OR EMPLOYERS’ ORGANISATION**

Trade Union or Employers’ Organisation

Register No.

TO THE REGISTRAR OF TRADE UNIONS, FREETOWN

Notice is hereby given that the above-mentioned union or organisation was dissolved in pursuance of the rules thereof on the ………………………………..day of ……………………………

Signed

1. Secretary

2. }

3. }Members

4. }

5. }

Name and address to which}

Registered copy is to be }

returned }

date ………………………….20…………………….

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No..**

**FORM N.**

**NOTICE OF AMALGAMATION OF TRADE UNION OR EMPLOYERS’ ORGANISATION**

1. Union or Organisation. Register No…………………………
2. Union or Organisation. Register No………………………….

{and so on if more than two)

TO THE REGISTRAR OF TRADE UNIONS AND EMPLOYERS’ ORGANISATION, FREETOWN

Notice is hereby given, that by the consent of two thirds of the whole number of members of each or every of the above –mentioned unions or organisation, they have resolved to become amalgamated as one trade union or employers’ organisation.

And that the following are the terms of the said amalgamation (state the terms):-

And that it is intended that the union or organisation shall henceforth be called the………………………………….

Accompanying this notice is a copy of the rules intended to be henceforth adopted by the amalgamated union or organisation (which are rules of the ………………………..trade union or employers’ organisation).

(To be signed by five members and the secretary of each trade union)

Name and address to which}

Registered copy is to be }

Sent. }

Dated this ………………………….day of ……………………………………..20…………………….

**THE TRADE UNION AND EMPLOYERS’ ORGANISATION REGISTRATION RULES**

**Rule No…**

**FORM O.**

**DECLARATION TO ACCOMPANY NOTICE OF AMALGAMATION**

Trade Union or Employers’ Organisation

Register No.

I ………………………………………..of ……………………………..the secretary of the above-mentioned union or organisation, do solemnly and sincerely declare that in the amalgamation of the said union or organisation with the ……………………………………………., notice of which is appended to this declaration, the provisions of the Industrial Relations and Trade Union Act in respect of amalgamations have been duly complied with.

And I make tis solemn declaration, conscientiously believing the same to be true, and by virus of the provisions of the Statutory Declarations act, 1835.

Taken and received before}

Me, etc. }

 …………………………………………..