



**Isle of Man**

*Ellan Vannin*

**AT 18 of 1985**

**TRADE DISPUTES ACT 1985**





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## TRADE DISPUTES ACT 1985

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**Isle of Man***Ellan Vannin*

## TRADE DISPUTES ACT 1985

*Received Royal Assent:* 3 July 1985

*Passed:* 9 July 1985

*Commenced:* 1 November 1985

**AN ACT** to make fresh provision for the settlement of trade disputes.

### *The Employment Tribunal*

#### **1 [Repealed]<sup>1</sup>**

##### *Trade disputes*

#### **2 Procedure for settlement of trade disputes**

- (1) Where a trade dispute exists or is apprehended, an industrial relations officer may, or at the request of any of the parties to the dispute shall, —
  - (a) inquire into the circumstances and cause of the dispute, and
  - (b) offer the parties to the dispute his assistance (which may be by way of conciliation or arbitration or by any other means) with a view to bringing about a settlement.
- (2) to (5) [Repealed]<sup>2</sup>

#### **3 Courts of inquiry**

- (1) Where an industrial relations officer has inquired into a trade dispute pursuant to section 2 and the dispute has not been settled, he may, and if so required by any of the parties to the dispute shall, request the Council of Ministers to establish a court of inquiry.<sup>3</sup>
- (1A) A court of inquiry shall consist of such person or persons as the Appointments Commission thinks fit (not being a member of the Council or the Keys or of any Statutory Board).<sup>4</sup>

- (2) A court of inquiry shall inquire into the causes and circumstances of the dispute, or any matters appearing to it to be relevant to the dispute, and may do so either in public or in private, as it thinks fit.
- (3) A court of inquiry shall make a report to the Council of Ministers on the matters into which it has inquired, and shall where practicable make recommendations with a view to bringing about a settlement of the dispute, and an industrial relations officer shall take such steps as he thinks fit to secure such a settlement in accordance with any such recommendations.<sup>5</sup>
- (4) [Repealed]<sup>6</sup>
- (5) A report under subsection (3) shall not include any information obtained by the court of inquiry, as to any trade union or as to any individual business (by whomsoever it is carried on), which is not available otherwise than through evidence given in public to the court, without the consent of the trade union or of the person carrying on the business in question.<sup>7</sup>

### 3A Disputes in essential services

- (1) Where a direction under section 14(4) of the *Trade Unions Act 1991* has been given in relation to a trade dispute, the Council of Ministers shall forthwith direct the Appointments Commission to establish a court of inquiry in relation to the dispute, unless such a court has already been established under section 3(1).<sup>8</sup>
- (2) A court of inquiry established under subsection (1) shall inquire into the causes and circumstances of the dispute, or any matters appearing to it to be relevant to the dispute, and may do so either in public or private, as it thinks fit.
- (3) A court of inquiry established (whether under section 3(1) or under subsection (1)) in relation to a trade dispute to which a direction under the said section 14(4) applies shall make a decision in writing with respect to the questions in dispute, and shall send a copy of its decision to the Chief Secretary, to each of the parties to the dispute and to an industrial relations officer.<sup>9</sup>
- (4) A decision under subsection (3) shall be binding on the parties to the dispute as if the terms thereof had been incorporated in an agreement between them for valuable consideration.
- (5) Where a direction under the said section 14(4) is expressed to apply in relation to some (but not all) of the parties to the trade dispute —
  - (a) the references in subsections (1) to (4) to the dispute are to the dispute so far as it concerns those parties, and

- (b) the references in those subsections to the parties to the dispute are to those parties and to any other parties with whom they are in dispute.
- (6) Where a direction under the said section 14(4) is withdrawn, subsections (3) and (4) shall cease to apply to the dispute, in relation to those parties as respects whom the direction has been withdrawn, but without prejudice to the effect of any decision already made by the court of inquiry.
- (7) Section 3(3) to (5) does not apply to a court of inquiry in relation to any functions under this section.<sup>10</sup>

#### **4 Further provisions as to courts of inquiry**

- (1) The Council of Ministers, after consultation with the Deemsters, may make rules regulating the procedure of courts of inquiry, including rules —
  - (a) as to the summoning of witnesses;
  - (b) as to the quorum of a court;
  - (c) enabling a court by summons to require the production of such documents as it may consider to be relevant.<sup>11</sup>
- (2) Rules under subsection (1) shall not have effect unless they are approved by Tynwald.
- (3) Subject to rules under subsection (1), a court of inquiry may by summons require any person appearing to it to have knowledge of the subject-matter of the inquiry to furnish to it, in writing or otherwise, such particulars relating thereto as it may require, and to attend before the court to give evidence, and the court may administer or authorise any person to administer an oath for that purpose.
- (4) If any person —
  - (a) refuses or wilfully neglects to attend in obedience to a summons under this section, or to give evidence, or
  - (b) wilfully alters, suppresses, conceals, destroys or refuses to produce any document which he is required to produce under this section, or
  - (c) does anything which, if the court of inquiry were a court of law having power to commit for contempt, would be contempt of court,

the court may certify that person's offence to the High Court, and the High Court may inquire into the alleged offence and, after hearing any evidence produced on behalf of or against that person and any statement offered in his defence, may punish him in like manner as if he had been guilty of contempt of the High Court.

- (5) A witness before a court of inquiry shall be entitled to the same immunities and privileges as if he were a witness before the High Court.

*Supplemental*

**5 Industrial relations officers**

- (1) The Governor in Council, after consulting the Civil Service Commission, shall appoint one or more fit persons to be industrial relations officers for the purposes of this Act and any other enactment.
- (2) An industrial relations officer shall hold office during the pleasure of the Governor in Council.
- (3) There shall be paid to an industrial relations officer out of moneys provided by Tynwald such salary and allowances, and such sums towards his expenses, as the Treasury after consultation with the Civil Service Commission may determine.<sup>12</sup>
- (4) References in any enactment to an industrial relations officer shall be construed as references to an industrial relations officer appointed under this section.

**6 [Repealed]<sup>13</sup>**

**7 Interpretation**

- (1) In this Act —

“**the Board**” [Repealed]<sup>14</sup>

“**employee**” [Repealed]<sup>15</sup>

“**industrial relations officer**” has the meaning given by section 5;

“**the Tribunal**” [Repealed]<sup>16</sup>

“**trade dispute**” means —

- (a) a dispute between workers and their employer or between workers and workers which relates wholly or mainly to one or more of the following matters —
- (i) terms and conditions of employment, or the physical conditions in which workers are required to work;
  - (ii) re-engagement of, or failure or refusal to re-engage, or termination or suspension of employment or the duties of employment of, one or more workers;
  - (iii) allocation of work or the duties of employment as between workers or groups of workers;
  - (iv) matters of discipline;

- (v) the membership or non-membership of a registered trade union on the part of a worker;
  - (vi) facilities for officials of registered trade unions;
  - (vii) machinery for negotiations or consultation, and other procedures, relating to any of the foregoing, including the recognition by employers or employers' organisations of the right of a registered trade union to represent workers in any such negotiation or consultation or in carrying out such procedures; and
- (b) a dispute is a trade dispute notwithstanding that it relates to matters occurring outside the Island, so long as the person or persons whose actions in the Island are said to be in contemplation or furtherance of the dispute are likely to be affected in respect of one or more of those matters specified in this definition by the outcome of the dispute;
- (c) a dispute between a Department or Statutory Board or any other officer or body performing functions on behalf of the Crown and any workers shall, notwithstanding that it is not the employer of those workers, be treated as a dispute between an employer and those workers; and
- (d) a dispute to which a registered trade union or employers' association is a party shall be treated as a dispute to which workers, or as the case may be, employers are parties.<sup>17</sup>

“**worker**” means an individual who has entered into or works under (or, where the employment has ceased, worked under) —

- (a) a contract of employment, or
- (b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual,

and any reference to a worker's contract shall be construed accordingly.<sup>18</sup>

- (2) In this Act “**employment**” means work by an individual under a worker's contract.<sup>19</sup>

## 8 Financial provision

All expenses of courts of inquiry under this Act shall be defrayed by the Department of Economic Development out of money provided by Tynwald.<sup>20</sup>

**9 Transitional provisions, amendments and repeals**

- (1) Nothing in this Act applies to any trade dispute in respect of which action has been taken under section 3 or 4 of the *Trade Disputes Act 1936* before the commencement of this Act.
- (2) Rules made under section 4(4) of the said Act of 1936 shall have effect as if made under section 4(1).
- (3) [Repealed]<sup>21</sup>
- (4) [Amends section 34 of the *Merchant Shipping (Masters and Seamen) Act 1979*.]

**10 Short title and commencement**

- (1) This Act may be cited as the Trade Disputes Act 1985.
- (2) This Act shall come into operation on such day or days as the Isle of Man Board of Social Security may by order appoint.<sup>22</sup>

**SCHEDULE<sup>23</sup>**



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> S 1 repealed by Employment Act 1991 Sch 11.

<sup>2</sup> Subss (2) to (5) repealed by Employment Act 1991 Sch 11.

<sup>3</sup> Subs (1) substituted by Employment Act 1991 Sch 10 and amended by GC155/91.

<sup>4</sup> Subs (1A) inserted by Employment Act 1991 Sch 10 and amended by Employment Act 2006 Sch 8.

<sup>5</sup> Subs (3) amended by Interpretation Act 1976 s 16A and by Employment Act 2006 Sch 8.

<sup>6</sup> Subs (4) repealed by Employment Act 1991 Sch 11.

<sup>7</sup> Subs (5) amended by Employment Act 1991 Sch 11.

<sup>8</sup> Subs (1) amended by GC155/91 and by Employment Act 2006 Sch 8.

<sup>9</sup> Subs (3) amended by Employment Act 2006 Sch 8.

<sup>10</sup> S (3A) inserted by Trade Unions Act 1991 s 15.

<sup>11</sup> Subs (1) amended by GC155/91 and by Employment Act 2006 Sch 8.

<sup>12</sup> Subs (3) amended by Treasury Act 1985 Sch 2.

<sup>13</sup> S 6 repealed by Statute Law Revision Act 1992 Sch 2.

<sup>14</sup> Definition of “the Board” repealed by GC141/90.

<sup>15</sup> Definition of “employee” repealed by Employment Act 2006 Sch 9.

<sup>16</sup> Definition of “the Tribunal” repealed by Employment Act 1991 Sch 11.

<sup>17</sup> Definition of “trade dispute” substituted by Employment Act 2006 Sch 8.

<sup>18</sup> Definition of “worker” added by Employment Act 2006 Sch 8.

<sup>19</sup> Subs (2) substituted by Employment Act 2006 Sch 8.

<sup>20</sup> S 8 amended by GC141/90, by Employment Act 1991 Sch 11 and by SD155/10 Sch 2.

<sup>21</sup> Subs (3) repealed by Employment Act 1991 Sch 11.

<sup>22</sup> ADO (whole Act) 1/11/1985 (GC293/85.).

<sup>23</sup> Sch repealed by Employment Act 1991 Sch 11.

