



TRISTAN DA CUNHA

REVISED EDITION OF THE LAWS, 2017

EMPLOYMENT AND COMMERCE

TRADE DISPUTES (TRISTAN DA CUNHA) ORDINANCE, 1969¹

Ordinance T5 of 1969

In force 30 December 1969

No amendments to 1 November 2017

No subsidiary legislation to 1 November 2017

TRADE DISPUTES (TRISTAN DA CUNHA) ORDINANCE, 1969

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AN ORDINANCE to regulate conciliation and arbitration in trade disputes.

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

Short title

1. This Ordinance may be cited as the Trade Disputes (Tristan da Cunha) Ordinance, 1969.

Interpretation

2. In this Ordinance, except where the context otherwise requires—
“employee” means any person who has entered into or works under a contract with an employer, whether the contract is by way of manual labour, clerical work or otherwise, is expressed or implied, oral or in writing, and whether it is a contract of service or of apprenticeship or a contract personally to execute any work or labour;
“lock-out” means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by the employer in consequence of a trade dispute, done, not with the intention of finally determining employment, but with a view to compelling those persons, or to aid another employer in compelling persons employed by the employer, to accept terms or conditions of or affecting employment;
“negotiated agreement” means any agreement of conciliation made as the result of action taken under section 6 of this Ordinance;
“strike” means the cessation of work by a body of persons employed, acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer, done as a means of compelling their employer or any person or body of persons employed, or to aid other workmen in compelling their employer or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment;
“trade dispute” means any dispute or difference between employers and employees, or between employees and employees, connected with the employment or non-employment, or the terms of the employment, or with the conditions of labour of any person;
“Tribunal” includes the Administrator when acting as such.

Application

3. This Ordinance does not apply to persons in the naval, military or air services of the Crown, but otherwise applies to civilian employees of the Crown in the same manner as if they were employed by or under a private person.

Reporting a dispute

4. (1) Any trade dispute, whether existing or apprehended, must be reported in writing to the Administrator by or on behalf of either of the parties to the dispute.

(2) Any question as to whether a report has been made in accordance with this section is to be decided by the Administrator and a certificate recording such decision signed by or on behalf of the Administrator is conclusive for all purposes.

Conciliation

5. The Administrator must consider any dispute so reported, and if the Administrator thinks fit, the Administrator, or any person required by him or her so to do, must endeavour to conciliate the parties by all reasonable means at the disposal of the Administrator or that person.

Agreement reached through conciliation

6. Any settlement concluded as a result of action taken under section 5 must be recorded in writing by the parties to it, and on being endorsed by the Administrator is to be known, and is hereinafter referred to, as a negotiated agreement and is deemed to be an award made under section 7.

Appointment of and awards made by an arbitration tribunal

7. (1) If the Administrator, or any person authorised by the Administrator for the purpose, is unable to effect a conciliation under section 5, the Administrator, if both parties consent, may refer the matter for settlement to an Arbitration Tribunal appointed under subsection (2) of this section, which, after hearing the parties to the dispute, must make an award on it.

(2) An Arbitration Tribunal (a “**Tribunal**”), may be appointed by the Administrator, and must consist of either—

- (a)* the Administrator or a sole arbitrator appointed by the Administrator, or as approved by both parties to the dispute—
- (b)* an arbitrator appointed by the Administrator assisted by one or more assessors nominated by the employers concerned and an equal number of assessors nominated by the employees concerned, all of whom are appointed by the Administrator; or
- (c)* one or more arbitrators selected from a panel nominated by the employers concerned, and an equal number of arbitrators selected from a panel nominated by the employees concerned, and an independent chairman, all of whom are appointed by the Administrator.

(3) Any award made by a Tribunal appointed under subsection (2)(*a*) or (*b*) must be made by the arbitrator.

Strikes or lock-outs

8. (1) An employee must not take part in a strike and an employer must not declare or take part in a lock-out in connection with any trade dispute until all the following conditions have been satisfied in relation to that trade dispute—

- (a)* a report of that trade dispute has been made to the Administrator in accordance with section 4;
- (b)* 21 days have elapsed since the date of that report; and
- (c)* the dispute has not during that time been referred by the Administrator for settlement in accordance with section 7.

(2) A person who acts in contravention of subsection (1) commits an offence. Penalty: A fine of £50 or imprisonment for 6 months, or both.

Appointment of assessors

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

(2) No act, proceeding or determination of a Tribunal is to be called in question or invalidated by reason of any such vacancy.

Awards to conform with other laws

10. No award may be made so as to be inconsistent with the terms or conditions of employment regulated under any other law in force.

Publication of an award

11. Every award must be submitted to the Administrator, who must, as soon as possible thereafter, cause the award to be published in such manner as he or she thinks fit.

Award to be binding

12. An award is binding on the employers and workmen to whom it relates and, as from the date of the award, or as from such any date specified in it, not being earlier than the date on which the dispute to which the award relates first arose, until such a date specified in the award (being a date not less than 6 months not more than 12 months after the date of the award, or if no date is specified, until a date 12 months after the date of the award), it is an implied term of the contract between any employer and any workman to whom the award relates that the rate of wages to be paid and the conditions of employment to be afforded under the contract are to be in accordance with the award.

Questions as to interpretation of an award

13. (1) If any question arises as to the interpretation of any award of a Tribunal, the Administrator or any party to the award may apply to the Tribunal for a determination of the question, and the Tribunal must determine the matter after hearing the parties concerned, or without any such hearing if the consent of the parties has first been obtained.

(2) A determination of the Tribunal under subsection (1) must be notified by it, in writing, to the Administrator and to the parties concerned, and is deemed to form part of, and has the same effect in all respects as, the original award.

Evidence in proceedings before tribunal

14. (1) For the purpose of dealing with any matter referred to it, a Tribunal may, by order, require any person to—

- (a) provide, in writing or otherwise, any particulars in relation to any matter the Tribunal requires;
- (b) attend before the Tribunal

- (c) give evidence on oath or otherwise; and
- (d) produce any relevant documents.

(2) A Tribunal is not bound by the rules of evidence in civil or criminal proceedings:

But if any witness objects to answering any question or to producing any relevant document on the ground that it will tend to incriminate him or her or on any other lawful ground, the witness is not required to answer such question or to produce such document and is not liable to any penalties for refusing so to do.

(3) A person who fails to obey an order given under subsection (1) commits an offence.

Penalty: A fine of £5.

Admission of public

15. A Tribunal may admit or exclude the public from any proceedings under this Ordinance.

Procedure before tribunals

16. The Administrator may make rules regulating the procedure to be followed in any proceedings by way of arbitration or inquiry under this Ordinance, and in the absence of any such rules the authority conducting the proceedings may regulate its own procedure.

Payments to arbitrators or assessors

17. The Administrator may authorise payment to any arbitrator or assessor or to any member of a Tribunal of such remuneration as the Administrator thinks fit.

Appointment of persons under this Ordinance

18. The Administrator may appoint, at remuneration and on terms and conditions the Administrator determines, any officers and other persons necessary for carrying out the purposes of this Ordinance.
