

BELIZE

TRADE UNIONS AND EMPLOYERS' ORGANISATIONS (REGISTRATION, RECOGNITION AND STATUS)

Arrangement of section

PART I

Preliminary

1. Short title.
2. Interpretation.
3. Exemptions.

PART II

Freedom of Association

4. Basic rights of employees.
5. Protection of employees from discrimination by employers, etc.
6. Protection of trade union from employer's interference and influence.
7. Basic rights of the employer.
8. Membership of trade unions or employers' organisations to be voluntary
9. Membership of trade unions and employers' organisations; basic guiding principles.
10. Federations.
11. Remedies for contraventions of this Part.

PART III

Registration and Status

12. Appointment of Registrar.
13. Registration of trade unions and employers' organisations.
14. Constitutions of trade union or employers' organisation.
15. Annual returns.
16. Legal status of trade unions and employers' organisations, and protection of officers and members from legal process.
17. Amalgamation of trade unions, etc.
18. Defunct trade unions or employers' organisations.

PART IV

Provisions Safeguarding the Interests of Members of Trade Unions and Employer's Organisations

19. Members, etc., to comply with Constitution.
20. Offences relating to election of officers.
21. Funds of trade unions, etc., how to be handled.

PART V

Recognition of bargaining rights

22. Appointment of Tripartite Body for collective bargaining purposes.
23. Certification and recognition procedures.
24. Information required for certification.
25. Suitability of bargaining unit.
26. Notice by employer.
27. Survey by Tripartite Body following agreement by employer.
28. Procedure where two or more trade unions apply for certification, etc., or where employer refuses recognition.
29. Duties of employer in relation to a poll.
30. Certain conduct prohibited on polling day.
31. Duties of employees in relation to a poll.
32. Grant or refusal of certification.
33. Employer to negotiate with certified trade union.
34. Duty of fair representation.
35. Procedure where employer intends to cease operations.
36. Effect of certification and recognition.
37. New collective bargaining agreements.
38. De-certification of trade union as bargaining agent for bargaining unit.
39. Employee's right to choose representative.
40. Access to employer's premises.

PART VI

Collective Bargaining Agreements

41. Features of collective bargaining agreements.
42. Enforceability of collective bargaining agreements.
43. Successor rights and obligations.

PART VII

Miscellaneous Provisions

44. General offence and penalty.
45. Regulations.
46. Commencement.

FIRST SCHEDULE

SECOND SCHEDULE

Commencement: 27th October, 2000

PART I Preliminary

Short title.

1. This Act may be cited as the Trade Unions and Employers' Organisations (Registration, Recognition and Status) Act.

Interpretation.

2. In this Act, unless the context otherwise requires:-

"bargaining agent" means a trade union that acts on behalf of employees;

"bargaining unit" means a group of employees on whose behalf collective bargaining may take place;

"collective agreement" means a written agreement between an employer, or an employers' organisation authorised by the employer, and a trade union, concerning the terms and conditions of employment of employees and any other matters of mutual interest;

"commission agent" means an agent or employee who is remunerated by Commission;

"dependent contractor" means a person, whether or not employed under a contract of employment, who performs work or services for another person for compensation or reward, on such terms and conditions which place him in relation to the other person in a position of economic dependence and under an obligation to perform duties for that other person more closely resembling the relationship of employee than that of an independent contractor;

"employee" means a person who offers his services under a contract of employment, and includes, where appropriate, a dependent contractor, a managerial employee and a former employee;

"employer" means any person or undertaking, corporation, company, public authority, statutory body or body of persons who or which employs any person to work under a contract of employment; or uses the services of a dependent contractor, commission agent, or a contract worker, and includes the heirs, successors and assigns of the employer;

"employers' organisation" or "employers' association" means any combination or group established by employers, the principal purposes of which are the representation and promotion of employers' interests and the regulation of relations between employers and employees; and includes a federation of employers' organisations;

"managerial employee" means an individual who has managerial responsibilities and who works under a contract of employment;

"Minister" means the Minister for the time being to whom the subject of labour is assigned by the Governor-General pursuant to section 41 of the Belize Constitution;

"Registrar" means the Registrar of Trade Unions and Employers' Organisations appointed under section 12 of this Act;

"Supreme Court" means the Supreme Court of Judicature established under the Supreme Court of Judicature Act and includes a Judge thereof sitting in Chambers;

"trade union" means any combination or group of persons, whether temporary or permanent, the principal purposes of which are the representation and promotion of employees' interests and the regulation of relations between employees and employers, and includes a federation of trade unions, but does not include an organisation or association that is dominated or influenced by an employer or an employers' organisation.

Exemptions.

3. This Act shall not apply to members of the Belize Defence Force, Belize Police Department, Belize Prison Service and the Belize Fire Department.

**PART II
Freedom of Association.**

Basic rights of the employee. [CAP. 4.]

4. (1) Subject to section 13 of the Belize Constitution, every employee shall have and be entitled to enjoy the basic rights specified in subsection (2).

4. (2) The basic rights referred to in subsection (1) are:

- (a) taking part in the formation of a trade union;
- (b) freely deciding whether to be a member of a trade union or a federation of trade unions;
- (c) taking part in any lawful trade union activities;
- (d) holding office in any trade union or a federation of trade Unions;
- (e) taking part in the election of any union representative, shop steward or safety representative or offering himself as a candidate at such election;

(f) acting in the capacity of a union representative, shop steward or safety representative if elected as such;

(g) exercising any other rights conferred on employees by this Act or any Regulations made hereunder, the Belize CAP. 4. Constitution, or any other law governing labour and employment relations, and assisting any other employee, union representative, shop steward, safety representative or trade union in the exercise of such rights.

Protection of employees from discrimination by employers, etc.

5. (1) It shall be unlawful for an employer, or an employers' organisation or federation, or a person acting for and on behalf of an employer or an employers' organisation or federation, to engage in the activities specified in subsection (2) in respect of any employee or person seeking employment.

5. (2) The activities referred to in subsection (1) are:

(a) requiring the employee or person seeking employment not to join a trade union or a federation of trade unions or to relinquish his membership therein as a condition precedent to the offer of employment, or, as case may be, the continuation of employment;

(b) discriminating or engaging in any prejudicial action, including discipline, dismissal or, as the case may be, refusal of employment because of the employee's exercise or anticipated exercise, or the person seeking employment's anticipated exercise, of any rights conferred or recognised by this Act or any Regulations made hereunder, the Belize Constitution, any other law governing labour and employment relations, or under any collective bargaining agreement; [CAP. 4.]

(c) discriminating or engaging in any prejudicial action, including discipline, dismissal or, as the case may be, refusal of employment against the employee or person seeking employment by reason of trade union membership or anticipated membership, or participation or anticipated participation in lawful trade union activities;

(d) threatening any employee or person seeking employment with any disadvantage by reason of exercising any rights conferred or recognized by this Act or any Regulations made hereunder, the Belize Constitution, any other law governing labour and employment relations, or under any collective bargaining agreement;

(e) promising any employee or person seeking employment any benefits or advantages for not exercising any rights conferred or recognised by this Act or any Regulations made hereunder, the Belize

Constitution, any other law governing labour and employment relations, or under any collective bargaining agreement;

(f) restraining or seeking to restrain any employee or other person seeking employment, through a contract of employment or otherwise, from exercising any rights conferred or recognised under this Act or any Regulations made hereunder, the Belize Constitution, any other law governing labour and employment relations, or under any collective bargaining agreement.

5. (3) Any contractual provision made pursuant to subsection (2) (f) shall be void, whether it was made before or after the commencement of this Act.

5. (4) Nothing in subsection (2) shall be read and construed as prohibiting an employer from lawfully dismissing or disciplining any employee.

Protection of trade unions from employers' interference and influence.

6. No person shall commit an act designed to promote the establishment of a trade union which is under the financial or other control and influence of an employer or employers' organisation, association or federation.

Basic rights of the employer. [CAP. 4.]

7. (1) Subject to section 13 of the Belize Constitution, every employer shall have and be entitled to enjoy the basic rights specified in subsection (2).

7. (2) The basic rights referred to in subsection (1) are:

(a) taking part in the formation of an employers' organisation, association or federation;

(b) holding office in any employers' organisation, association or federation;

(c) being a member of an employers' organisation, association or federation and taking part in its lawful activities;

(d) exercising any other rights conferred or recognised by this Act or any Regulations made hereunder, the Belize Constitution, any other law governing labour and employment relations, or under a collective bargaining agreement, and assisting any other employer, employers' organisation, association or federation in the exercise of such rights.

Membership of trade unions or employers' organisations to be voluntary.

8. No person shall use or seek to use any threat or intimidation, directly or indirectly, to compel, coerce or duress any other person to join or not to join, to be a member or not to be a member, to support or not to support,

financially or otherwise, any trade union or employers' organisation or any federation associated therewith.

Membership of trade unions and employers' organisations; basic guiding principles.

9. (1) Every employee who is eligible for membership in a trade union or federation of trade unions as provided in the Constitution of the trade union or federation of trade unions shall have and be entitled to membership of the trade union or federation of trade unions; provided that he complies at all times with all the other Rules as to payment of membership fees or otherwise as may from time to time apply to the trade union or federation of trade unions.

9. (2) Every employer who is eligible for membership in an employers' organisation, association or federation as provided in the Constitution of the employers' organisation, association or federation shall have and be entitled to membership of the employers' organisation, association or federation; provided he complies at all times with all the other Rules as to payment of membership fees or otherwise as may from time to time apply to the employers' organisation, association or federation.

9. (3) A trade union or federation of trade unions, or an employers' organisation, association or federation shall not discriminate, in its Constitution or through any other medium, against any person applying for membership on the grounds of the race, sex, religion, ethnic origin, nationality, colour, social origin, indigenous origin, political opinion, disability, age, pregnancy, marital status or family responsibilities of that person, or contravene any law for the time being in force relating to the equality of pay and other opportunities for work of equal value.

Federations.

10. Trade unions or employers' organisations may form, participate in, be affiliated to, contribute to, or join an national or international federation of trade unions or employers' organisations or associations.

Remedies for contraventions of this Part.

11. (1) Any person who considers that any right conferred upon him under this Part has been infringed may apply to the Supreme Court for redress.

11. (2) Where a complaint made under subsection (1) alleges that an employer or an employers organisation, association or federation has contravened any of the provisions of subsection (2) of section 5, the employer, employers' organisation, association or federation shall have the burden of proving that the act complained of does not amount to a contravention of any of the provisions of subsection (2) of section 5 which is the basis of the complaint.

11. (3) Where the Supreme Court finds that an employee was dismissed in contravention of subsection (2) of section 5, it may make an order directing the reinstatement of the employee, unless the reinstatement of the employee seems to that Court not to be reasonably practicable, and may further make such other orders as it may deem just and equitable, taking into account the circumstances of the case.

11. (4) Without prejudice to the Court's powers under subsection (3), where the Supreme Court finds that a complaint made under subsection (1) has been proved to its satisfaction, it may make such orders in relation thereto as it may deem just and equitable, including without limitation orders for the reinstatement of the employee, the restoration of benefits and other advantages, and the payment of compensation.

PART III Registration and Status

Appointment of Registrar.

12. The Minister may appoint, after consultation with representatives of trade unions and employers' organisations, and on such terms and conditions as the Minister may determine, a suitably qualified and experienced person to be Registrar of Trade Unions and Employers' Organisations.

Registration of trade unions and employers' organisations.

13. (1) It shall be the duty of the Registrar to keep a Register of all the trade unions and employers' organisations registered under this Act, and such Register shall be in such form as may be prescribed from time to time by Regulations made hereunder.

13. (2) Only trade unions and employers' organisations registered under this Act shall enjoy and be entitled to the rights, benefits and advantages conferred on them and their members by this Act, and no trade union or employers' organisation which is not registered under this Act shall be legally recognised as such.

13. (3) Any seven or more members of a trade union, or three or more members of an employers' organisation may, by subscribing their names to the Rules for the time being governing the trade union or employers organisation and otherwise complying with all the other requirements of this Act and Regulations made hereunder, apply to the Registrar to be registered as a trade union or an employers' organisation.

13. (4) An application under subsection (3) shall be accompanied by three copies of the Constitution of the trade union or employers' organisation, duly authenticated by the signatures of the Chairperson or President and the

Secretary of the trade union or employers' organisation for which the application is made.

13. (5) The Registrar shall register a trade union or an employers' organisation which applies for registration if he is satisfied that:

- (a) the requirements of this section have been met;
- (b) the Constitution of the trade union or employers' organisation complies with the Belize Constitution and the laws of Belize;
- (c) the name of the trade union or employers' organisation is not identical to the name of any other trade union or employers' organisation or so closely resembles any other organisation's name as to be likely to mislead, deceive or confuse its own members or the public as to its true identity.

13. (6) Any trade union or employers' organisation which was in existence and recognised as such before the commencement of this Act shall be registered by the Registrar, notwithstanding that such trade union or employers' organisation may not meet all the registration requirements provided in this section.

13. (7) Every person aggrieved by the Registrar's refusal or failure to register a trade union or employers' organisation may appeal against such refusal or failure to the tripartite body for determination.

13. (8) Every trade union or employers' organisation which is registered under this Act shall be issued with a certificate of registration by the Registrar.

Constitution of trade unions or employers' organisations. First Schedule.

14. (1) The Constitution of every trade union or employers' organisation shall include the information contained in First Schedule hereto.

14. (2) Subject to subsection (1), a trade union or an employers' organisation may amend or repeal and replace its Constitution in accordance with the procedure set out in its Constitution.

14. (3) Any amendments to, or repeal and replacement of, the Constitution pursuant to subsection (2) shall be submitted to the Registrar who shall, if satisfied that the amendments or the new Constitution, as the case may be, comply with the requirements of section 13, issue to the trade union or employers' organisation a certificate to the effect that the amended Constitution or the new Constitution complies with section 13, and the amendments or the new Constitution shall have effect from the date of the issuance of such certificate.

14. (4) Any amendments made under subsection (2) may include a change of the name of the trade union or employers' organisation.

Annual returns.

15. (1) Every trade union or employers' organisation shall submit to the Registrar, by the 30th day of June in each year, a return which shall include:

- (a) the registered address of the trade union or employers' organisation;
- (b) the names and addresses of all the officers of the trade union or employers' organisation;
- (c) the total number of the fully paid-up members of the trade union or employers' organisation;
- (d) an audited financial statement of the trade union or employers' organisation for the preceding year.

15. (2) The Registrar shall after first giving due warning to comply, suspend or cancel the certificate of registration of any trade union or employers' organisation which fails to comply with subsection (1).

15. (3) Where the registration of a trade union or employers' organisation has been suspended or cancelled pursuant to subsection (2), the trade union or employers' organisation may appeal to the tripartite body against such suspension or cancellation.

Legal status of trade unions and employers' organisations, protection of officers and members from legal process.

16. (1) Every trade union or employers' organisation registered under this Act shall be a body corporate having perpetual succession and a common seal and subject to the provisions of this Act, shall have the power to acquire, hold and dispose of movable and immovable property of whatever kind, to enter into contracts, to sue and be sued in its name and to do all lawful things necessary for the attainment of its objectives.

16. (2) No officer, representative or member of a trade union or an employers' organisation shall be personally liable for any act or omission of the trade union or employers' organisation if the act or omission was done by such officer, representative or member in good faith in the course of furthering the objectives of the trade union or employers' organisation.

16. (3) Subsection (2) shall not be read and construed as exempting from liability any trade union or employers' organisation, or any officer, representative

or member thereof, from any contractual liability for goods, services and obligations incurred by the trade union or employers' organisation in the course of its operations.

Amalgamation of trade unions, etc.

17. Subject to the provisions of this Act, one trade union or employers' organisation may amalgamate with another trade union or employers' organisation and the new trade union or employers' organisation formed therefrom shall assume all the rights, benefits and advantages, and be liable to all the duties and obligations of its predecessor organisations, unless the Supreme Court on good cause shown upon the application of an interested person orders otherwise.

Defunct trade unions or employers' organisations.

18. (1) Without prejudice to the powers conferred upon him by subsection (2) of section 15, the Registrar may, upon the application of any officer, representative or member of a trade union or an employers' organisation, after making such enquiries as he may consider necessary, declare a trade union or an employers' organisation to be defunct if such trade union or employers' organisation has not been operating for a period not less than two years.

18. (2) A declaration made by the Registrar under subsection (1) shall, having regard to the objects and the Constitution of the trade union or the employers' organisation, or to any resolution passed by the majority of the fully paid-up members thereof:

(a) include a direction as to the winding up of the trade union or employers' organisation, and the disposal and distribution of the assets of the trade union or employers' organisation in accordance with its Constitution; and

(b) operate as a cancellation of the certificate of registration issued under subsection (2) of section 15.

18. (3) Any trade union or employers' organisation aggrieved by a declaration made by the Registrar under this section may appeal against such declaration to the Supreme Court, and the appeal shall be heard and determined in accordance with Part X of the Supreme Court of Judicature Act and any Rules made thereunder.

PART IV
**Provisions Safeguarding the Interests of Members of Trade Unions
and Employers' Organisations**

Members, etc., to comply with Constitution.

19. Every member, officer or representative of a trade union or an employers' organisation shall, at all times when he is such member, officer or representative, comply with the Constitution and Rules of the trade union or employers' organisation.

Offences relating to election of officers.

20.(1) Every member of a trade union or an employers' organisation who, either directly or indirectly, by himself or by any other person on his behalf, influences or attempts to influence the outcome of an election of officers of the trade union or employers' organisation by giving, lending or agreeing to give or lend, or by offering or agreeing to offer, or by promising any money or some other valuable consideration to any voter thereat, or by procuring or endeavouring to procure to any such voter or any other person on behalf of such voter any office or employment within any organisation or undertaking, or who gives to any such voter any gift or loan, or who agrees to give to any other person on behalf of such voter any gift or loan, or who influences the outcome of the election by fraud, threats, bribery, duress or other improper means, commits an offence against this subsection and shall be liable on summary conviction to a fine of not less than five hundred dollars or to imprisonment for a period of not less than six months, or to both such fine and period of imprisonment.

20. (2) The Registrar or any member, officer or representative of a trade union or an employers' organisation may, without prejudice to subsection (1), apply to the Supreme Court if he has reasonable grounds to believe that the outcome of an election was influenced by the acts provided in that subsection, and the Supreme Court may hear and determine the application, and make such orders it may think just and equitable in relation thereto, including any declaration that the election is void, and that new elections shall be held within such time as it may determine, and the filling or vacation of offices until new elections are held.

Funds of trade unions, etc., how to be handled.

21. (1) A trade union or an employers' organisation shall have powers to apply the funds of the trade union or the employers' organisation to any lawful objects or purposes authorised under its Constitution and the law.

21. (2) Without prejudice to the generality of subsection (1), all funds received by or on behalf of the trade union or employers' organisation shall be credited to the account of the trade union or employers' organisation, and for this purpose the officers of the trade union or employers' organisation may open an account at such bank or financial institution in Belize as they may determine from time to time.

21. (3) Expenditures lawfully incurred by or on behalf of a trade union or an employers' organisation shall be evidenced by a written receipt or voucher, which shall be retained on file for accounting purposes.

21. (4) The treasurer or other officer responsible for the custody of the trade union or employers' organisation's funds and other property, including any records related thereto, shall hand over such funds, property or records to any specified officer or person when requested to do so by the governing body of the trade union or employers' organisation, or when leaving the service of the trade union or employers' organisation.

21. (5) Any officer, representative or member of a trade union or an employers' organisation may make application to the Supreme Court for the enforcement of any provision of this section, and the Supreme Court may make such orders in relation thereto as it may think just and equitable.

PART V

Recognition of Bargaining Rights

Appointment of Tripartite Body for collective bargaining purposes.

22.(1) The Minister may, after consultation with representatives of trade unions and employers' organisations, appoint a Tripartite Body (hereinafter referred to as "the Tripartite Body") made up of three representatives nominated by the Minister, three representatives nominated by the trade unions and three representatives nominated by the employers' organisations, and such body shall be responsible for the certification of any trade union for the purpose of negotiating any collective bargaining agreement in accordance with the next following sections of this Act.

Second Schedule.

22. (2) The composition of, and other procedural matters governing, the Tripartite Body shall be as set out in Second Schedule to this Act.

Certification and recognition procedures.

23. (1) Any trade union claiming to have as its fully paid-up members a majority of the employees of an employer in a bargaining unit may, subject to the provisions of this Part, make a written application to the Tripartite Body constituted under section 22, to be certified as the sole and exclusive bargaining agent for the bargaining unit.

23. (2) Notwithstanding subsection (1), all existing trade unions which were certified and recognised as bargaining agents for bargaining units prior to the commencement of this Act shall be deemed to have been so certified and recognised pursuant to this Act.

23. (3) Where at the commencement of this Act:

(a) no collective bargaining agreement is in force and no trade union has been certified under this Part for any bargaining unit, an application by a trade union to the Tripartite Body for certification as the bargaining agent in respect of the bargaining unit may be made at any time;

(b) no collective bargaining agreement is in force but a bargaining agent has been certified pursuant to subsection (2) for a bargaining unit, the application for certification pursuant to subsection (1) shall be made within twelve months of the commencement of this Act;

(c) a collective bargaining agreement is in force, application For certification by a trade union as a bargaining agent for a bargaining unit may be made within three months before the expiration of the collective bargaining agreement.

Information required for certification.

24. (1) An application by a trade union for certification under this Part shall include the information specified in subsection (2).

24. (2) The information referred to in subsection (1) is:-

(a) a description of the proposed bargaining unit; and

(b) evidence and facts which establish that the majority of the employees in the bargaining unit wish to have the trade union certified as their sole and exclusive bargaining agent.

24. (3) A copy of the application and the information specified in subsection (2) shall be served by the trade union on the employer.

24. (4) The Tripartite Body shall determine an application made by a trade union under this Part as expeditiously as possible, but in any case not later than three months after receipt thereof

Suitability of bargaining unit.

25. (1) Before granting certification to a trade union which applies to it under this Part, the Tripartite Body shall first determine the suitability of the bargaining unit in respect of which the application is made, and shall for that purpose use the principles specified in subsection (2).

25. (2) The principles referred to in subsection (1) on which the tripartite body shall determine the suitability of a bargaining unit include:

(a) the community of interest among the employees in the bargaining unit;

(b) the nature, type and scope of duties undertaken or performed by employees in the bargaining unit;

(c) any written or oral views expressed by or for and on behalf of the employer, the trade union and employees forming the bargaining unit;

(d) the historical development, if any, of collective bargaining in the employer's undertaking, corporation or company.

25. (3) The Tripartite Body may, before granting any certification to a trade union which has made application to it under this Part, after considering the principles specified in subsection (2), include additional employees of the employer to the bargaining unit, or exclude some employees therefrom in order to make the unit more suitable as a bargaining unit.

Notice by employer.

26.(1) Upon receiving a copy of an application for the certification of a trade union as a bargaining agent for a bargaining unit comprising the employees of an employer served upon him under subsection (3) of section 24, an employer shall within fourteen days indicate by written notice to the tripartite body:

(a) his agreement to recognise the trade union as the bargaining agent of his employees comprised in the bargaining unit;

(b) his refusal to recognise the trade union as the bargaining agent of his employees comprised in the bargaining unit,

and state therein the reasons, if any, on which his decision is based.

26. (2) A copy of the notice made under subsection (1) shall be served on the trade union to which it applies.

Survey by Tripartite Body following agreement by employer.

27. (1) Where only one trade union has applied to the Tripartite Body for certification under this Part, and the employer has agreed in writing under section 26 (1) to recognise the trade union as the bargaining agent of his employees comprised in the bargaining unit, and if the Tripartite Body is satisfied that the other provisions of this Act have been complied with, the Tripartite Body may, after consultation with the trade union and the employer's organisation as soon as may be, carry out a survey among the employees comprising the bargaining unit to determine the extent of support enjoyed by the trade union among such employees.

27. (2) The Tripartite Body shall certify a trade union if the results of the survey carried out under subsection (1) shows that the trade union is supported by at least fifty-one *per centum* of the employees comprising the bargaining unit.

27. (3) The Minister may, after consultation with the Tripartite Body, make Regulations governing the holding of the surveys carried out under subsection (1), or under section 28 or 38.

Procedure where two or more trade unions apply for certification, etc., or where employer refuses recognition.

28.(1) Where two or more trade unions apply to the Tripartite Body for certification as the bargaining agent for a bargaining unit, or where one trade union applies for certification but the employer refuses to recognise the trade union as the bargaining agent for the bargaining unit, the Tripartite Body shall without undue delay proceed to hold a poll by secret ballot among the employers comprising the bargaining unit to determine the trade union most suitable to represent the bargaining unit as the bargaining agent, and shall after determining the results of the poll declare the trade union with the highest number of votes to be the bargaining agent for the bargaining unit:

Provided that the Tripartite Body shall not certify any trade union as the bargaining agent for any bargaining unit if the trade union received less than fifty-one *per centum* of the votes cast in the poll held under subsection (1).

28. (2) Where the results of the poll held under subsection (1) show a tie, a second or subsequent poll shall be held every fourteen days thereafter until the tie is broken.

28. (3) Every employer or employers' organisation shall be bound to negotiate collectively with any trade union certified as a bargaining agent for a bargaining unit.

Duties of employer in relation to a poll.

29. Every employer shall, in relation to a poll held under section 28:

- (a) take all necessary steps to ensure that his employees comprising the bargaining unit and eligible to vote in the poll are given the opportunity to do so; and
- (b) permit every employee in the bargaining unit who is eligible to vote in the poll to be absent from work for at least two hours on the polling day for the purposes of voting, without deducting any pay or other benefits from such employee.

Certain conduct prohibited on polling day.

30. On the day appointed by the Tripartite Body for polling, no person, organisation or group of persons shall:

- (a) furnish, use or supply to any person any loudspeaker, bunting, ribbon, label, ensign, banner, standard or set of colours, or any flag belonging to any trade union, with the intent to use it or to let any person use it as propaganda for any trade union, and thereby to be identified as a supporter of such trade union;
- (b) engage in any activities on the premises at which the poll is being held, or within one hundred yards thereof, designed to influence any person entitled to vote at the poll to vote or to refrain from voting, or to vote or refrain from voting for a specific trade union;
- (c) wilfully obstruct any person from voting or carrying out any functions conferred on that person by this Act or any Regulations made hereunder.

Duties of employees in relation to a poll.

31. No employee shall, in relation to a poll held under section 28:

- (a) receive, or agree to receive, any money, loan, reward, gift, office or employment within any undertaking or organisation as a result of voting or agreeing to vote or of refraining or agreeing to refrain from voting at the poll, or for any specific trade union; or
- (b) accept or agree to take any food, drink or other provision from any person who offers such food, drink or other provision as an inducement or reward to the employee to vote or refrain from voting at the poll, or to do so in respect of a specific trade union.

Grant or refusal of certification.

32. Pursuant to subsection (4) of section 24, the Tripartite Body shall within three months after receipt of an application for certification by a trade union under this Part:

- (a) certify the trade union as the bargaining agent for the bargaining unit referred to in the application; or
- (b) refuse to certify the trade union as the bargaining agent for the bargaining unit referred to in the application if it is satisfied that the trade union has failed to secure the highest number of votes in a poll held under section 28;
- (c) refuse to certify the trade union as the bargaining agent for the bargaining unit if it is not satisfied of the suitability of the bargaining unit as provided in section 25.

Employer to negotiate with certified trade union.

33. (1) Where a trade union has been certified as a bargaining agent by the Tripartite Body in accordance with section 32 (a), the employer of the employees comprising the bargaining unit which the trade union is certified to represent shall recognise the trade union and meet and engage in negotiations with it for collective bargaining purposes.

33. (2) Where a certification is granted to a trade union by the Tripartite Body under this Part, the employer or the employers' organisation and the trade union shall collectively negotiate in good faith, and shall make every reasonable effort to conclude a collective bargaining agreement.

33. (3) Any person aggrieved by a contravention of subsection (1) or (2) may apply to the Supreme Court for redress, and the Supreme Court may make such orders and grant such other relief in respect of the application as it may think just and equitable to ensure compliance with any of those subsections.

33. (4) Without prejudice to subsection (3), a certified trade union, or an employer or employers' organisation which contravenes subsection (1) or (2) commits an offence and shall be liable on summary conviction to a fine of not less than five thousand dollars.

Duty of fair representation.

34. (1) Where a trade union has been certified and is recognised as the sole and exclusive bargaining agent for any bargaining unit, it shall be its duty to provide full and proper representation during the bargaining process of all the interests of the employees comprising the bargaining unit in respect of their rights under the collective bargaining agreement under negotiation, notwithstanding that some of the employees may not be fully paid-up members of the trade union.

34. (2) Any member of the bargaining unit aggrieved by the representations made by a trade union under subsection (1) may apply to the Supreme Court for redress, and the Supreme Court may make such orders and grant such other relief in respect of the application as it may think just and equitable to ensure compliance with that subsection.

Procedure where employer intends to cease operations.

35.(1) Where a trade union has been certified under section 23 (2) or 32 (a), or has made application to the Tripartite Body for certification under subsection (1) of section 23, any employer who intends to cease operations shall give to the tripartite body and the relevant trade union:

- (a) reasonable notice of his intention to close or cease operations; and
- (b) the reasons for the closure or cessation of operations; and

(c) the number and categories of employees that shall be affected by the closure or cessation of operations.

35. (2) An employer who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine of not less than five thousand dollars.

Effect of certification and recognition.

36. Where a trade union is certified by the Tripartite Body and recognised by the employer or the employers' organisation pursuant to this Act:

(a) the trade union shall be the sole and exclusive bargaining agent for the employees comprising the bargaining unit for which it is certified and recognised, and shall replace any trade union which previous to the certification and recognition was the bargaining agent, and shall have exclusive authority to bargain collectively with the employer or employers' organisation for and on behalf of the employees comprising the bargaining unit, and to bind such employees for so long as such certification remains in force to any collective bargaining agreement concluded with the employers or employers' organisation;

(b) any certification previously granted by the tripartite body to any other trade union shall thereby stand revoked in respect of the employees comprising the bargaining unit for which the trade union is certified as the bargaining agent;

(c) any collective bargaining agreement which is currently in force negotiated by a previous trade union for the bargaining unit may, subject to section 37, continue in force, and the trade union with current certification shall have such rights and enjoy such advantages and benefits and assume such duties and obligations in relation to such agreement as if it were the bargaining agent which negotiated the agreement.

New collective bargaining agreements.

37. Where a trade union which is certified by the Tripartite Body and recognised by the employer or the employers' organisation replaces another trade union as the bargaining agent for a bargaining unit, and where there is a current collective bargaining agreement in force, it shall be lawful for the trade union with current certification to submit proposals to the employer or the employers' organisation for the amendment or repeal and replacement of the collective bargaining agreement, before the expiration of such collective bargaining agreement, and the parties thereto may, after negotiating as provided in subsection (2) of section 33, agree to the proposed amendments, or, as the case may be, enter into a new collective bargaining agreement, and such amendments or new agreement shall enter into force within ninety days after

execution, but before such entry into force the agreement which was in force shall continue to apply to the bargaining unit.

De-certification of trade unions as bargaining unit.

38. (1) At any time after the expiration of one year from the initial certification of a trade union by the Tripartite Body, any employee in or an employer of the bargaining unit may make written application to the Tripartite Body to withdraw the certification of the trade union in respect of the bargaining unit on the basis that the majority of the members of the bargaining unit no longer wish to have the trade union as their bargaining agent.

38. (2) A copy of the application made under subsection (1) shall be served on the trade union and employer concerned and the application shall be accompanied by such information as may be necessary to show that a majority of the members of the bargaining unit no longer wish to have the trade union as their bargaining agent.

38. (3) Within ninety days of receiving an application made under subsection (1), the Tripartite Body shall hold a poll by secret ballot of the members of the bargaining unit concerned to determine whether such employees no longer wish to have the trade union as their bargaining agent.

38. (4) The Tripartite Body shall grant the application made under subsection (1) if the poll held under subsection (3) shows that at least fifty-one *per centum* of the employees no longer wish the trade union to be their bargaining agent.

38. (5) Where an application is granted under subsection (3), the Tripartite Body shall forthwith cancel the certification of the trade union as the bargaining agent for the bargaining unit, and may make such directions in respect of the validity or duration of any collective bargaining agreement negotiated by the trade union for the bargaining unit which is and currently in force.

38. (6) Where a trade union has been de-certified under this section, no other trade union shall apply for certification as the bargaining agent for the bargaining unit until a period of three months has elapsed from the date of the de-certification.

38. (7) If the Tripartite Body refuses to de-certify a trade union based on the results of the poll held under subsection (3), no person shall make an application under subsection (1) for the de-certification of the trade union until a period of three months has elapsed from the date of the refusal to de-certify the trade union.

38.(8) Where the Tripartite Body de-certifies or refuses to de-certify a trade union as bargaining agent for a bargaining unit under this section, any

person or trade union aggrieved by the decision may appeal to the Minister, whose decision thereon shall be final.

38. (9) In deciding an appeal under subsection (8), the Minister shall endeavour to promote a system of orderly and effective collective bargaining.

Employee's right to choose representative.

39. Nothing in this Act shall prevent, or shall be read and construed as preventing, an employee with an individual grievance or involved in disciplinary proceedings from appointing and being assisted by a representative of the employee's own personal choice, including an attorney-at-law or officer of a trade union other than a trade union certified by the Tripartite Body and recognised by the employer or employers' organisation as the bargaining agent for the bargaining unit of which the employee is a member.

Access to employer's premises.

40. (1) No employer shall refuse or fail to give an officer or representative of a certified trade union such reasonable access to the employer's premises as may be necessary for the promotion of the lawful activities of the trade union.

40. (2) In granting any access under subsection (1), it shall be lawful for an employer to impose such conditions and restrictions as to the time of entry by the officer or representative as may be reasonable and necessary to avoid disruptions of operations and to protect employees' safety.

PART VI

Collective Bargaining Agreements

Features of collective bargaining agreements.

41. (1) Every collective bargaining agreement shall:

- (a) be reduced to writing and duly signed for and on behalf of the parties to the agreement;
- (b) contain the date on which it enters into force;
- (c) contain effective and adequate procedures for the avoidance and settlement of disputes arising from the interpretation, application or operation of the agreement and such procedures may provide for the reference of any dispute to conciliation, mediation or arbitration;
- (d) provide for such other matters as may be agreed between the parties to the agreement; and

(e) be lodged with the Minister, the Registrar and the Tripartite Body.

41. (2) Any collective bargaining agreement which does not meet all the requirements specified in subsection (1) but which was in force immediately prior to the commencement of this Act shall continue in force until it expires or is repealed and replaced by a new collective bargaining agreement made pursuant to this Act.

Enforcement of collective bargaining agreements.

42. (1) A collective bargaining agreement is binding on the trade union and the employer who are parties to the agreement, and unless stated otherwise, on every employee who is a member of such trade union or who is a member of the bargaining unit in respect of which the trade union is certified as the bargaining agent.

42. (2) The terms of the collective bargaining agreement are and shall be deemed to be incorporated into the employment contract of each employee to whom the agreement applies.

42. (3) Where any person alleges a breach by any person of any of the provisions of a collective bargaining agreement, such person may apply to the Supreme Court for redress, and the Supreme Court may make such orders and grant such other relief in respect of the application as it may think appropriate to ensure compliance with the provisions of the collective bargaining agreement.

Successor rights and obligations.

43. (1) If any employer sells a part of his business, undertaking or company, or otherwise leases, transfers or disposes of such part or the whole of the business, undertaking or company:

(a) the purchaser, lessee or transferee shall be bound by all pending proceedings made under this Act in respect of the business, undertaking or company before such purchase, lease, transfer or disposition;

(b) any collective bargaining agreement entered into by the employer which is in force shall continue to apply and bind the purchaser, lessee or transferee, until it expires or is repealed and replaced by a new collective bargaining agreement.

43. (2) Any party aggrieved by the application of paragraph (a) or (b) of subsection (1) may apply to the Supreme Court for redress, which may in respect of such application make such orders and grant such relief as it may think just and equitable.

PART VII

Miscellaneous Provisions

General offence and penalty.

44. If any person contravenes any provision of this Act for which no penalty is specifically provided, such person shall be liable on summary conviction to a fine not exceeding five thousand dollars, or to imprisonment for a period not exceeding five years.

Regulations.

45. The Minister may after consultation with the Tripartite Body and the Registrar, make Regulations for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, such Regulations may provide for:

- (a) the form of the Register to be kept and maintained by the Registrar under subsection (1) of section 13;
- (b) the form of the application which may be made by a trade union under subsection (1) of section 23;
- (c) the form of the notice to be given by an employer under section 26;
- (d) the fees payable by trade unions or employers' organisations applying to be registered under this Act;
- (e) the type of information required under paragraph (b) of subsection (2) of section 24;
- (f) any other thing which may appropriately be provided in Regulations made under this section.

Commencement.

46. This Act shall come into force on a day to be appointed by the Minister by Order published in the *Gazette*.

FIRST SCHEDULE

[Section 14 (1)]

The Constitution of every trade union and employers' organisation shall include the following information, namely:

- (a) the name of the trade union or the employers' organisation;
- (b) the objects of the trade union or the employers' organisation;

- (c) the qualifications necessary for membership of the trade union or the employers' organisation;
- (d) provisions dealing with officers of the trade union or employers' organisation, including the President or Chairperson of the trade union or employers' organisation, and the Secretary General or Secretary and Treasurer thereof;
- (e) provisions regulating the holding of general and other meetings and the period for holding such meetings which, in the case of general meetings, shall be at least once every year;
- (f) provisions regulating the making of resolutions by members and officers, and the manner in which such resolution may be made;
- (g) the fees and other subscriptions payable by members, and the maximum amount of arrears allowable before a member loses his good standing;
- (h) the grounds on which an officer or member may be expelled, suspended or disciplined;
- (i) the procedures to be followed during any proceedings for the suspension, expulsion or disciplining of a member or an officer, and the manner in which allegations against a member or an officer may be brought to his attention, and the time which shall be given to such member or officer to enable him to fully prepare his defence and to be heard;
- (j) the grounds on which suspended, disciplined or expelled members may make an appeal, and the person or body to whom or to which such appeal may be made;
- (k) provisions for the keeping of full and accurate records of a financial or other nature by the Treasurer and other officers, and for regulating the annual carrying out of financial audits by duly qualified auditors who are not members or officers, and the furnishing to all members at general or other meetings or upon request of fully audited annual statements of account;
- (l) provisions for the banking and investment of the funds of the trade union or employers' organisation;
- (m) provisions for the disbursement of funds, including the signing of cheques and other financial instruments;

- (n) provisions regulating the entitlement of members and officers to financial and other benefits from the funds and other resources of the trade union or employers' organisation;
- (o) provisions for the amendment of the Constitution, or the repeal and replacement thereof;
- (p) provisions specifying the duration of the financial year;
- (q) provisions governing the inspection of Registers of members and other books;
- (r) provisions specifying the manner in which an amalgamation as provided in section 17 of the Act may be carried out;
- (s) provisions regarding dissolution and winding up, and the distribution of property.

SECOND SCHEDULE

[Section 22 (2)]

1. COMPOSITION

- (a) The composition of the Tripartite Body shall be made up of nine members appointed by the Minister, three of whom shall be nominated by the Minister, the other three by the trade unions and the last three by the employers' organisations, the total number of such members being nine (9).
- (b) The Minister shall appoint the Chairperson of the Tripartite Body from the members nominated by him pursuant to paragraph (a).

2. QUORUM

- (a) Any six (6) of the members of the Tripartite Body present and voting at any meeting shall constitute a quorum for that meeting.
- (b) If the Chairperson is absent or incapable of acting as such at any meeting due to the existence of an interest in the matters to be decided thereat or otherwise, the members present shall elect one of their number to preside at that meeting.

(c) In the event of an equality of votes, the Chairperson (or the person appointed pursuant to paragraph (b) shall have a second or casting vote.

3. DUTIES OF THE CHAIRPERSON

In addition to the duties imposed upon the Chairperson by this Act, or such other duties as may from time to time be unanimously imposed on the chairperson by all nine (9) members of the Tripartite Body, the chairperson shall additionally have the duties of:

- (i) chairing the meeting of the Tripartite Body;
- (ii) coordinating the recognition and enforcement of International Labour Organisation Conventions ratified by, and standards agreed to by, the Government of Belize;
- (iii) liaising with the Registrar and other authorities on matters related to the implementation of this or other related Acts;
- (iv) causing quarterly reports of the work of the Tripartite Body on the certification process in each bargaining unit to be sent to the Minister, trade unions and employers or employers' organisations, and making copies of such reports available to interested persons, on payment of a fee or otherwise.

4. LOGISTICAL AND ADMINISTRATIVE SUPPORT

- (a) The Tripartite Body shall have a full-time office funded equally by the Government, employers' organisations and trade unions.
- (b) If the work of the Tripartite Body requires the services of an attorney, a Law Officer shall be provided by the Government.

5. DECISIONS OF THE TRIPARTITE BODY

Decisions of the Tripartite Body shall as far as possible be unanimous, but if this cannot be achieved, decisions shall be by majority vote, with the person presiding at any meeting having a second or casting vote in the event of a tie or an equality of votes.

6. MEETINGS

The Government, trade unions or employers' organisations representatives on the Tripartite Body shall requisition the Chairperson to call a meeting as the need arises from time to time. (The Minister shall request the Chairperson to call special meetings.)

7. HEARING OF APPEALS

Appeals shall lie to the Tripartite Body pursuant to sections 13 (7) and 15 (3) of this Act.