

Act No. XLV of 1947.

[PASSED BY THE DOMINION LEGISLATURE]

[Received the assent of the Governor General on the 20th December, 1947]

An Act further to amend the Indian Trade Unions Act, 1926.

WHEREAS it is expedient further to amend the Indian Trade Unions Act, 1926 (XVI of 1926), for the purposes hereinafter appearing;

It is hereby enacted follows:—

1. Short title and commencement.—(1) This Act may be called the Indian Trade Unions (Amendment) Act, 1947.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

*** 2. Amendment of long title and preamble, Act XVI of 1926.**—In the long title and preamble of the Indian Trade Unions Act, 1926 (hereinafter referred to as the said Act),—

(a) after the word “registration” the words “and recognition” shall be inserted;

(b) for the words “registered Trade Unions in British India” the words “registered and recognised Trade Unions and to certain unfair practices in industrial or trade employment” shall be substituted.

3. Amendment of section 2, Act XVI of 1926.—In section 2 of the said Act,—

(a) clauses (b) to (h) shall be relettered as clauses (f), (g), (i), (j), (k), (m) and (n), respectively;

(b) for the opening paragraph and clause (a), the following shall be substituted, namely:—

“In this Act, unless there is anything repugnant in the subject or context,—

(a) ‘appropriate Government’ means, in relation to Trade Unions whose objects are not confined to one Province, the Central Government, and in relation to other Trade Unions, but subject to the provisions of section 28A, the Provincial Government;

(b) ‘employer’ means,—

(i) in relation to an industry carried on by or under the authority of any department of the Central Government or a Provincial Government, the authority prescribed in this behalf, or where no authority is prescribed, the head of the department,

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority,

and includes an association of employers;

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(c) 'executive' means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted;

(d) 'industry' means any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen;

(e) 'Labour Court' means, in relation to a Trade Union, a Labour Court appointed by the appropriate Government under sub-section (1) of section 28B;";

(c) after clause (g) as relettered by this section, the following clause shall be inserted, namely:—

'(h) "recognized Trade Union" means a Trade Union recognised under this Act;";

(d) after clause (k) as relettered by this section, the following clause shall be inserted, namely:—

'(l) "strike" has the meaning assigned to it in the Industrial Disputes Act, 1947 (XIV of 1947), "illegal strike" means a strike which by virtue of any law for the time being in force is illegal, and "irregular strike" means an illegal strike or a strike declared by a Trade Union in contravention of its rules referred to in clause (d) of section 28D; '.

4. Insertion of new Chapters IIIA and IIIB in Act XVI of 1926.—After Chapter III of the said Act the following Chapters shall be inserted, namely:—

"CHAPTER IIIA

Recognition of Trade Unions

28A. *Modification of the definition of "appropriate Government" for certain purposes.*—Notwithstanding anything to the contrary in the definition of "the appropriate Government" in section 2, the Central Government shall be deemed to be the appropriate Government for the purposes of this Chapter in respect of Trade Unions consisting of workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield.

Explanation.—In this section and for the purposes of this Chapter, a Trade Union of which not less than fifty per cent. of the members are workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield shall be deemed to be a Trade Union consisting of workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield as the case may be.

28B. *Appointment, constitution, powers and procedure of Labour Courts.*—

(1) For the purposes of this Chapter, the appropriate Government shall appoint such number of Labour Courts as it considers necessary, consisting of one or more persons each of whom—

(a) is, or has been, a Judge of a High Court or a District Judge, or

(b) is qualified for appointment as a Judge of a High Court;

Provided that the appointment to a Labour Court of any person not qualified under clause (a) shall be made in consultation with the High Court of the Province in which the Labour Court has, or is intended to have, its usual place of sitting.

(2) Every Labour Court shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall

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be deemed to be a Civil Court within the meaning of sections 480 and 492 of the Code of Criminal Procedure, 1898 (V of 1898).

(3) The proceedings of Labour Courts shall be regulated and conducted in such manner as may be prescribed.

28C. *Recognition by agreement.*—(1) Where an employer agrees to recognize a Trade Union, a memorandum of agreement signed by the employer and the officers of the Trade Union, or their authorised representatives, may be presented to the Registrar who shall record the memorandum in a register in the prescribed manner.

(2) Such an agreement may be revoked by either party thereto on application made to the Registrar in the prescribed manner.

(3) While such an agreement is in force, the Trade Union shall, in its relations with the employer with whom the agreement is made, have all the rights of a recognized Trade Union under this Act, and shall for all other purposes be deemed to be a recognized Trade Union.

28D. *Conditions for recognition by order of a Labour Court.*—A Trade Union shall not be entitled to recognition by order of a Labour Court under section 28E unless it fulfils the following conditions, namely :—

(a) that all its ordinary members are workmen employed in the same industry or in industries closely allied to or connected with one another ;

(b) that it is representative of all the workmen employed by the employer in that industry or those industries ;

(c) that its rules do not provide for the exclusion from membership of any class of the workmen referred to in clause (b) ;

(d) that its rules provide for the procedure for declaring a strike ;

(e) that its rules provide that a meeting of its executive shall be held at least once in every six months ;

(f) that it is a registered Trade Union, and that it has complied with all the provisions of this Act :

Provided that the reference in clause (b) to "the employer" shall as respects recognition by an association of employers, be construed as a reference to all the employers who are members of the association.

28E. *Application to, and grant of recognition by, Labour Courts.*—(1) Where a registered Trade Union having applied for recognition to an employer has failed to obtain recognition within a period of three months from the date of making such application, it may apply in writing, setting out such particulars as may be prescribed, to the Labour Court for recognition by that employer.

(2) A single application may be made under sub-section (1) for recognition—

(a) by more than one employer, or

(b) by an association of employers as well as one or more members thereof.

(3) The Labour Court may call for further information for the purpose of ascertaining whether the Trade Union is entitled to recognition by the employer under this section, and if the Trade Union fails to supply the required information within the time granted, the Labour Court may dismiss the application.

(4) The Labour Court shall, after serving notice in the prescribed manner on the employer, investigate whether the Trade Union fulfils the conditions for recognition set out in section 28D, and in deciding whether the condition set out in clause (b)

thereof is fulfilled, the Labour Court shall have regard to, but shall not be bound by, the fact whether the proportion which the number of the workmen referred to in the said clause who are members of the Trade Union and are not in arrears of their subscription for any period exceeding three months, bears to the total number of such workmen is less, or not less, than such percentage, if any, as may be prescribed in this behalf, either generally, or in respect of any particular locality or any particular employer or class of employers, or any particular industry or class of industries.

(5) If the Labour Court is satisfied that the Trade Union is fit to be recognized by the employer, it shall make an order directing such recognition and may, where the recognition is to be by an association of employers, further direct, by the same or a subsequent order, recognition by every member of the association in relation to whom the Trade Union fulfils the condition set out in clause (b) of section 28D.

(6) Every order made under sub-section (5) shall be forwarded to the appropriate Government which shall notify it in the official Gazette, and while a recognition directed by such order is in force the Trade Union shall, in its relations with the employer concerned, have all the rights of a recognized Trade Union under this Act and shall for all other purposes be deemed to be a recognized Trade Union.

28F. *Rights of recognized Trade Unions.*—(1) The executive of a recognized Trade Union shall be entitled to negotiate with employers in respect of matters connected with the employment or non-employment or the terms of employment or the conditions of labour of all or any of its members, and the employer shall receive and send replies to letters sent by the executive on, and grant interviews to that body regarding, such matters.

(2) Nothing in sub-section (1) shall be construed as requiring an employer to send replies to letters on, or grant interviews regarding matters on which, as a result of previous discussion with the executive of the Trade Union, the employer has arrived at a conclusion, whether in agreement with the executive or not, unless a period of at least three months has elapsed since the said conclusion was intimated to the executive, or unless there has been a change in circumstances.

(3) Any dispute between the employer and the executive of a recognized Trade Union as to whether a conclusion has been arrived at, or whether there has been a change in circumstances, within the meaning of sub-section (2), shall be referred to the Registrar whose decision shall be final.

(4) The executive of a recognized Trade Union shall be entitled to display notices of the Trade Union in any premises where its members are employed, and the employer shall afford the executive reasonable facilities for that purpose.

28G. *Withdrawal of recognition.*—(1) Where the recognition of a Trade Union has been directed under section 28E, the Registrar or the employer may apply in writing to the Labour Court for withdrawal of the recognition on any of the following grounds, namely:—

(a) that the executive or the members of the Trade Union have committed any unfair practice set out in section 28J within three months prior to the date of the application;

(b) that the Trade Union has failed to submit any return referred to in section 28I;

(c) that the Trade Union has ceased to be representative of the workmen referred to in clause (b) of section 28D.

(2) On receipt of an application under sub-section (1) the Labour Court shall, unless it thinks fit to dismiss the application summarily, serve notice in the prescribed manner on the Trade Union to show cause why its recognition should not be withdrawn.

(3) If after giving a reasonable opportunity to the Trade Union to show cause the Labour Court is satisfied that the Trade Union is no longer fit to be recognized, it shall make an order declaring that the recognition of the Trade Union has been withdrawn, and forward a copy of the order to the appropriate Government which shall notify it in the official Gazette.

28H. Application for fresh recognition.—On the expiry of not less than six months from the date of withdrawal of recognition of a Trade Union under sub-section (3) of section 28G, the Trade Union, if it continues to be a registered Trade Union, may again apply for recognition, and the procedure laid down in this Act shall apply in respect of such application as if it were an original application for recognition.

28I. Recognized Trade Unions to submit prescribed returns.—Every Trade Union recognized under section 28E shall submit to the Registrar at the prescribed time and in the prescribed manner such returns, in addition to those referred to in section 28, as may be prescribed.

CHAPTER IIIB

Unfair practices

28J. Unfair practices by recognized Trade Unions.—The following shall be deemed to be unfair practices on the part of a recognized Trade Union, namely :—

(a) for a majority of the members of the Trade Union to take part in an irregular strike ;

(b) for the executive of the Trade Union to advise or actively to support or to instigate an irregular strike ;

(c) for an officer of the Trade Union to submit any return required by or under this Act containing false statements.

28K. Unfair practices by employers.—The following shall be deemed to be unfair practices on the part of an employer, namely :—

(a) to interfere with, restrain, or coerce his workmen in the exercise of their rights to organise, form, join or assist a Trade Union and to engage in concerted activities for the purpose of mutual aid or protection ;

(b) to interfere with the formation or administration of any Trade Union or to contribute financial or other support to it ;

(c) to discharge, or otherwise discriminate against, any officer of a recognized Trade Union because of his being such officer ;

(d) to discharge or otherwise discriminate against any workman because he has made allegations or given evidence in an inquiry or proceeding relating to any matter such as is referred to in sub-section (1) of section 28F ;

(e) to fail to comply with the provisions of section 28F :

Provided that the refusal of an employer to permit his workmen to engage in Trade Union activities during their hours of work shall not be deemed to be an unfair practice on his part."

5. Amendment of section 29, Act XVI of 1946.—(1) To sub-section (1) of section 29 of the said Act the following proviso shall be added, namely :—

"Provided that the making of regulations under this section for the purpose of carrying into effect the provisions of Chapter IIIA shall be deemed to be a purpose of that Chapter within the meaning of section 28A."

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(2) To the said section 29 the following sub-section shall be added, namely:—

“(3) The Central Government may give directions to a Provincial Government as to the regulations to be made under this section for prescribing the percentages referred to in sub-section (4) of section 28E.”

6. Amendment of section 31, Act XVI of 1926.—In section 31 of the said Act,—

(a) in sub-section (1),—

(i) after the word “registered” the words “or recognized” shall be inserted;

(ii) for the word “statement” the words “statement, return” shall be substituted;

(b) in sub-clause (2), after the words “that section” the words and figures “or in or from any return referred to in section 28I” shall be inserted.

7. Insertion of new section 32A in Act XVI of 1926.—After section 32 of the said Act the following section shall be inserted, namely:—

“32A. *Penalty for unfair practices.*—(1) Any employer who commits any unfair practice set out in section 28K shall be punishable with fine which may extend to one thousand rupees.

(2) Where a Criminal Court imposes a fine, or confirms in appeal, revision or otherwise a sentence of fine imposed, on an employer for committing an unfair practice set out in clause (c) or clause (d) of section 28K, it may, when passing judgment, order the whole or any part of the fine to be applied in the payment to any person of compensation for loss or injury caused by the unfair practice.”