



THE ZANZIBAR INDUSTRIAL COURT
ACT, 1994

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ACT NO. 2 OF 1994

I ASSENT

Salim Amour

SALMIN AMOUR
PRESIDENT OF ZANZIBAR

AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

30th May, 1994

AN ACT TO REPEAL THE TRADE DISPUTES
(ARBITRATION AND SETTLEMENT) DECREE
AND TO PROVIDE FOR THE ESTABLISHMENT
OF THE ZANZIBAR INDUSTRIAL COURT AND
MATTERS CONNECTED THEREWITH

ENACTED by the House of Representatives of
Zanzibar.

PART I
PRELIMINARY

Short title
and
commencement.

1. This Act may be cited as the Zanzibar
Industrial Court Act, 1994 and shall come into
operation on such date as the Minister may, by notice
published in the Gazette, appoint.

Application.

2.(1) The Act shall apply to person or group of
persons employed by or under private sector.

(2) The Minister may by notice published in the
Gazette extends or reduces the application of this Act.



Interpretation. 3. In this Act, unless the context otherwise requires:

"award" means an award made by the court and includes negotiated agreement or a voluntary agreement which is registered by the court as an award;

"Chairman" means the Judge of the High Court appointed to be chairman of the Court appointed under section 14;

"Commissioner of Labour" means any person appointed as Commissioner of Labour and includes the deputy Commissioner of Labour;

"the court" means the Zanzibar Industrial Court established by section 13;

"employer" means any person or firm, corporation or company, public authority or body or person who or which has entered into contract of service to employ any person and includes any officer of such person, firm, corporation, company, authority or body who is placed in authority over all other persons employed by such person, firm, corporation, company, authority or body;

"employer association" means the Employers Association of Zanzibar;

"employee" means a person who has entered into or works under a contract of service with an employer whether by way of manual labour, clerical work or otherwise and whether the contract is expressed or implied or is oral or in writing and whether it be a contract



of service or of apprenticeship or a contract personally to execute any work or labour;

"Labour officer" means any person appointed as such under the provision of the Labour Decree;

"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 him, done in consequence of a trade dispute, not with the intention of finally determining employment, but with a view to compelling those persons, or to aid another employer is compelling persons employed by him, to accept terms or conditions of or affecting employment;

"Minister" means the Minister for the time being responsible for labour matters;

"Registrar" means the Registrar of the Court appointed under section 15;

"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 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 accept terms or conditions of or affecting employment;

"trade dispute" means any dispute or difference between employers and workmen or between workmen and any authority or body, connected with the employment or non employment or the terms of the employment or with the conditions of labour, of any person;



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"trade Union" means a trade union or other association of persons which is representative of all or a substantial proportion of employers or workmen as the case may be, in any trade or industry or any branch thereof and includes representatives appointed under the provisions of section 14.

PART II

GENERAL PROVISIONS FOR ARBITRATION, SETTLEMENT AND INQUIRY IN TRADE DISPUTE

Trade disputes
to be
reported to
Labour
Commissioner.

4.(1) Subject to the provisions of this section, any trade dispute whether existing or apprehended may, if not otherwise determined, be reported to the Labour Commissioner by notice in writing given either by or on behalf of the employer or on behalf of the employee as the case may be, by the official of a registered trade union of which the employees are members or by employee in person or through his advocate.

(2) Subject to the provisions of sub-section (5) of this section, where a trade dispute has been reported to the labour commissioner in accordance with subsection (1) of this section, the labour commissioner shall within seven days from the date when the dispute was reported to him appoint a labour officer a conciliation Board which consists of employers and employee's representative and such other persons as he may think fit, to be the conciliators for such dispute.

(3) Notwithstanding the provisions of subsection (2) of this section the Labour commissioner shall consider any trade dispute so reported and endeavour to conciliate the parties by all means at his disposal and effect a settlement and shall for this purpose make use of such existing machinery for settlement of trade dispute as may seem to him appropriate.



(4) Any settlement effected as provided for in this section shall be recorded in writing by the parties thereto and on being indorsed by the Labour Commissioner shall be known, and in this Act referred to as the negotiated agreement, and shall be deemed to be an award.

(5) Notwithstanding the provisions of subsections (2) and (3) of this section, where a trade dispute has been reported to the Labour Commissioner in accordance with subsection (1) of this section and both parties to such dispute apply in writing for the dispute to be referred to the Court for settlement or where the Labour Commissioner, after consultation with parties to the dispute, is of the opinion that the dispute should be referred to the court for settlement without any conciliatory measures being first taken in respect thereof, he shall within fourteen days from the date when the dispute was reported or referred to him and refer the dispute to the Court.

Further
reference to
Labour
Commissioner.

5. Where a conciliator appointed under section 4 is unable to effect a settlement of a trade dispute the labour officer shall report the fact to the Labour Commissioner, and on the receipt of a report of the labour officer he shall refer the dispute to the Court.

Reference
to court.

6. Where a trade dispute has been referred to the court under the provisions of this Part, the court shall proceed to consider the dispute and make an award thereon in accordance with the provision of Part IV.

Reference
for advice.

7. Without prejudice to the other provisions of this Act, the Labour Commissioner may, where a trade dispute exists or is apprehended refer to the court for advice on any matter relating to or arising out of the trade dispute which, in his opinion, ought to be so referred, had the court shall inquire into every such matter referred to and advice the labour commissioner thereon.



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PART III
LOCK-OUT AND STRIKES

Prohibition
of lock-out
and strikes.

8. No employers shall take part in any strike and no employee shall unless a trade dispute exists between that employer and his employees or between those employees and their employer and the dispute has been reported or referred to the Labour commissioner in accordance with the provisions of this Act, and

- (a) the trade dispute has been settled and neither implementation has been made within the prescribed period nor notice to refer the dispute to the court has been made to the Labour Commissioner; or
- (b) there is no implementation of the court's award within the prescribed period of time.

Notice of
strikes.

9. Subject to the provision of section 8 to any leader of a trade union or employer involved in a trade dispute may call for a strike on condition that a written notice of such strike shall be given to the Minister fourteen days prior to the date of such strike.

Offences.

10.(1) Any employee who contravenes the provisions of section 8 and 9 of this Act shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand shillings or be sent to the educational centre for a term not exceeding six months or to both such fine and imprisonment.

(2) Any employer who contravenes the provisions of section 8 and 9 of this Act shall be guilty of an offence and shall on conviction be liable to a fine not less than hundred thousand shillings or be sent to the educational centre for a term not less than six months or both such fine and imprisonment.



(3) Any person who procures or incites another person to take part in a lock-out or strike in contravention of the provisions of section 8 and 9 shall be guilty of an offence and shall on conviction be sent to the educational centre for a term not exceeding six months or both such fine and imprisonment.

Powers
of Arrest.

11. Any police officer may arrest without a Warrant any person whom he reasonably suspected of having committed an offence against section 10 of this Act.

Sanction
of Attorney
General.

12. No prosecution for contravention of section 10 of this Act shall be instituted save by, or with the consent of the Attorney General.

PART IV

THE ZANZIBAR INDUSTRIAL COURT

Establishment
and jurisdiction
of the
Court.

13.(1) There is hereby established an industrial court to be known as the Zanzibar Industrial Court.

(2) Subject to the provision of this Act, the court established under subsection (1) of this section shall have jurisdiction:

- (a) to hear and determine any trade dispute referred to it under the provisions of this Act;
- (b) to inquire into any matter referred to it under this Act and report to the Minister on such matters;
- (c) to advise the Minister on labour policy and settlement of disputes on labour matters;



- (d) to advise the labour commissioner on any matter referred to it by him under the provision of this Act;
- (e) to register negotiated agreement and voluntary agreement and to hear and determine matters related to the registration of such agreements;
- (f) to hear and determine trade disputes related to redundancy;
- (g) to exercise such other functions and powers as are conferred upon it by this Act or as may be conferred upon it by any written law.

Constitution
of the
court.

14. The court shall consist of -

- (a) the chairman of the court, who shall be appointed by the President, upon advise by the Minister and after consultation with the Chief Justice, from among Judges of the High Court;
- (b) two assessors appointed by the Minister from each of the employers association and trade union.

Registrar
and other
staff of
the court.

15.(1) There shall be a Registrar of the court who shall be appointed by the Minister upon advise by the Chairman and he shall be the chief executive officer of the court answerable to the chairman, subject to the provisions of this Act and to any other written law.

(2) There shall be such other staff of the Court in such number and holding such offices as the court may determine as being necessary or desirable to assist the Registrar in the proper and effective discharge of his duties and affair's of the court.



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(3) The office of the Registrar and those of the other staff of the court shall be offices in service of the Zanzibar Government.

Sittings of
the court.

16.(1) The court may sit on such occasion and at such places as the business of the court may demand or as the Chairman may from time to time determine.

(2) For the purpose of holding proceeding in exercise of the functions of the court under this Act, the court shall be properly constituted if presided over by the Chairman sitting with two assessors selected by the Chairman from the list appointed by the Minister:

Provided that the chairman in selecting the assessors shall select one from employers and from trade union representatives.

(3) Notwithstanding the provision of subsection (2) of this section -

(a) If in the course of any proceeding before the court one or both of the assessors who were present at the commencement of the proceeding is or are for any reason absent, the chairman and the remaining assessor, if any may continue and conclude the proceeding;

(b) if for any reason at the commencement of any proceeding any of the assessors is absent, the Chairman and the assessor present shall properly constitute the court.

(4) At the conclusion of the proceedings before the court, the chairman shall seek and record the opinion of the assessors present at such conclusion.

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(5) The Chairman shall not be bound by the opinions of the assessors but if he disagrees with the opinion of any of them he shall record his opinion of that assessor and the reasons for his disagreement.

(6) No proceeding shall be invalid by reason only of an irregularity in the selection of any assessor.

Duties
of court.

17. Where any trade dispute or other matter is referred to the court, the court shall proceed to inquire into such dispute or matter, and

(a) Shall hear, receive and consider any submissions, arguments or evidence made, presented or tendered by or on behalf of -

- (i) the employees concerned;
- (ii) the trade union of which such employees may be members;
- (iii) the employer concerned; and
- (iv) any body of persons which, in the opinion the court, represents the interests of the employer and of which the employer concerned is a member;

(b) may seek advice or consult in such manner as it may think appropriate from any public officer, public department, body corporate or institution of Government on financial and economic policies;

(c) shall, in making any award, report or decision or in giving any advice have regard, in so far as the same may be relevant to the need;



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- (i) to maintain a high level of domestic capital accumulation with a view to increasing the rate of economic growth and to providing greater employment opportunities;
- (ii) to maintain and expand the level of employment;
- (iii) to develop payment by result schemes, or other wage incentive schemes, which will induce an employee to make greater effort and relate increases in remuneration to improvements in labour productivity;
- (iv) to prevent and promote gains in wages of employees from being affected adversely by unnecessary and unjustified price increases;
- (v) to preserve and promote the competitive position of local product, in the domestic market as well as in the overseas markets;
- (vi) to establish and maintain reasonable differentials in rewards between different categories of skills and level of responsibility;
- (vii) to maintain a fair relation between the incomes of different sectors of the community.



Negotiated
agreement.

18.(1) Where a negotiated agreement is submitted to the court under the provision of this Act, the court shall examine such agreement and any report of the Labour Commissioner accompanying the agreement relating to the agreement and shall proceed to decide whether or not to register the agreement.

(2) The court may, where a negotiated agreement is referred to it -

- (a) Register the agreement as an award without any modification;
- (b) register the agreement as an award after making such modifications thereto as the parties to the agreement may consent to; or
- (c) refuse to register the agreement.

(3) Where a negotiated agreement is registered whether with or without any modification; the agreement so registered shall be deemed to be an award.

(4) Where the court refuses to register any negotiated agreement referred to it, the Labour Commissioner shall refer the matter back to the conciliator for further negotiations with the parties concerned and notwithstanding the negotiated agreement, the dispute between the parties shall be deemed to have received and reference back to the conciliator shall be deemed to be reference to a conciliator under subsection 2 of section 4 of this Act.

Award may
be
retrospective.

19. Any award or negotiated agreement concerning a trade dispute which is made or effected by a conciliator or the court may be made retrospective.



Interpretation
of awards.

20.(1) If any question arises to the interpretation of any award of the court, the Labour Commissioner or any other party to the award may apply to the court for a decision on such question, and the court shall decide the matter after hearing the parties or without such hearing, as it thinks fit. The decision of the court shall be notified to the parties and shall be deemed to form part of and shall have the same effect in all respect as the award.

(2) If any question arises as to the interpretation of any negotiated agreement prior to its registration, the provision of subsection (1) of this section shall apply thereto in every respect except that the conciliator shall perform the function assigned by that subsection to the court.

Appeals
against
decision
of court.

21.(1) Any person aggrieved by any order or decision of the Court may appeal against such decision to the court of Appeal of Tanzania in accordance with the Court of Appeal's Rules.

(2) Subject to the provisions of this Act any settlement reached by the parties or any awards or decision of the Court to any trade dispute shall be binding on employers and employee to whom it related as if it were a decree of the Court, notwithstanding that any of the parties has a right or is intending to file an action or appeal against such decision in any court.

Rules of
Evidence
not
binding in
the court.

22.(1) A conciliator or the court, for the purpose of dealing with any matter referred to him or it under this Act, shall be entitled to elicit all such information as in the circumstances may be considered necessary, without being bound by the rules of evidence in civil or criminal proceeding, and may by order require any person -



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- (a) To furnish, in writing or otherwise, such particulars in relation to any matter as may be required; or
- (b) to attend before the conciliator or the court and give evidence on oath or otherwise; or
- (c) to produce any document:

Provided that if any witness refuses to furnish any particulars or answer any question or to produce any document on the ground that it will incriminate him or on any other lawful ground, he shall not be required to furnish such particulars or to answer such question or produce such document nor shall be liable to any penalty for refusing to do so.

(2) Any person who, without lawful excuse as aforesaid, fails to obey an order given under the provisions of subsection (1) of this section shall be guilty of an offence and shall on conviction be liable to a fine not exceeding four thousand shillings.

Right of parties to be represented by an advocate.

23.(1) Any person appearing before the court in any proceeding under this Act may of right appear or assisted by an advocate of the High Court, subject always to the provisions of any rules of court made by the High Court.

(2) If at the time appointed for hearing of a trade dispute or matter by the court and any of the parties refuses or fails to appear, the court -

- (a) If the party absent is the complainant and is so absent for reasons which appear to the court to be unreasonable or not good, shall dismiss the application or dispute, as the case may be; or

15/.....



- (b) if the party absent is the person representing the employer or management, may proceed to hear and determine the dispute or matter ex-parte.

Protection of members of the court.

24.(1) Save as is expressly provided by this Act, no act or thing done or omitted to be done by a member of the court shall, if the act or omitted bona fide in the exercise of his functions under this Act, render such member of the court civil or criminally liable for that act or omission.

(2) For the purpose of this section, the expression "member of the court" means chairman, an assessor or an official member exercising function under this Act.

Sittings of many be public or private.

25. It shall be in the discretion of a conciliator or the court, as the case may be to permit, or exclude the public or press from any proceedings under this Act.

Report by court.

26. The chairman shall cause to be prepared and submitted to the Minister a report of the Court's operations and activities at such intervals as the Minister may direct.

PART V MISCELLANEOUS

Non-application of Arbitration Decree Cap. 25.

27. The Arbitration Decree Chapter 25 of Laws of Zanzibar shall not apply to any proceedings or award under this Act.

Voluntary agreements to be registered.

28.(1) Notwithstanding any provision to the contrary in any written law where any agreement is reached between any trade union and any employer union and any employer respecting the wages or terms of service of the employees or any group of employees employed by



employer, such agreement (in this Act referred to as a "voluntary agreement") shall be recorded in writing by the parties thereto and submitted to the Labour Commissioner.

(2) On receipt of a voluntary agreement the Labour Commissioner shall submit the same to the court together with a report setting forth the following particulars: -

- (a) the rate of wages payable prior to the agreement;
- (b) the date of the last revision of wages;
- (c) the increase in labour cost in the event of the agreement being enforced;
- (d) the expected increase in labour productivity in the trade or industry affected by the agreement;
- (e) whether any redundancy in such trade or industry is likely to ensue;
- (f) the effect of agreement on the price of product concerned;
- (g) whether the agreement, if enforced, is likely to affect any plan for expansion in the trade or industry concerned.

(3) No voluntary agreement shall be operative or be binding on the parties thereto unless it is registered by the court.

(4) Where a voluntary agreement is submitted to the court, the court shall examine such agreement and the labour commissioner's report and shall proceed to decide whether or not to register the agreement.



(5) The provision of section 8 shall apply to proceeding relating to registration of a voluntary agreement.

(6) The court may, where a voluntary agreement is submitted to it -

(a) register the agreement as award without any modification or after making modification thereto as the parties to the agreement may consent to; or

(b) refuse to register the agreement.

(7) Where a voluntary agreement is registered, whether with or without any modification, the agreement so registered shall be deemed to be an award.

Extension
of award.

29.(1) Where the Labour Commissioner is of the opinion that it is desirable to extend any award effected under the provisions of this Act in respect of undertaking of any trade or industry, he may submit a proposal for such extension to the Court.

(2) Where a proposal is submitted to the court under subsection (1) of this section the court shall proceed to consider the same in accordance with the provisions of this Act, and may, if it is satisfied that the proposed extension is desirable, make an order extending the award in such a manner as it may direct.

Contempts
of the
court.

30.(1) Any person who -

(a) Wilfully disobeys any lawful order, process or requirement issued by the court;

(b) publishes any proceedings or report of the court or any part of it contrary to an order prohibiting publication or without prior authorisation of the court;



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- (c) within the premises in which any proceeding of court is being held or taken or within the precincts of those premises shows disrespect, in speech or manner, to or with reference to that proceeding;
- (d) discloses or publishes a report of evidence taken or deliberations of the court held in Camera or directed to be withheld from publication;
- (e) within the premises in which any proceeding of the court is being held or taken, and in the face of the court, conducts himself, in speech or manner, so as to belikely to threaten any witness or to disrupt the proceeding of the court;
- (f) with a view to preventing the giving of evidence or production of anything before the court, does any act intended or likely to intimidate a person summoned from giving the evidence or producing the thing.
- (g) with a view to punish or victimize a person, does any act to him after that person has given evidence or produced anything before the court, which injures or is likely to injure that person or his property;
- (h) publishes or utters anything in any manner which scandalize the court;
- (i) wilfully publishes or does any thing which is intended or tends to prejudice the fair hearing and determination of any trade dispute or matter before the court;

19/.....



is guilty of contempt of court and shall on conviction be liable to be sent to educational centre for a term not exceeding three months.

(2) Save as is provided in section 31, all offences of contempt against the court shall be triable by the district court.

Summary
procedure
for
contempt
of court.

31.(1) Where any offence under section 30 of this Act is committed in the face of the court, the court may cause the offender to be detained in custody and at any time before the rising of the court on the same day may take cognisance of the offence and the sentence the offender to imprisonment for a period not exceeding one months.

(2) Without prejudice to section 30 and subsection (1) of this section the court shall have power to punish by fine or imprisonment such contempt of its authority as -

- (a) misbehaviour of any kind by any person in its face or so near to it as to obstruct the administration of justice;
- (b) misbehaviour of any of the staff of the court in their official transactions;
- (c) disobedience or resistance to its lawful authority.

Sitting
allowance.

32. The assessors, conciliator and official members sitting with the chairman in any court proceedings shall be paid a sitting allowance of such amount as may be determined by the Minister from time to time, taking into account the prevailing economic and other circumstances.



Regulations.

33. The Minister may make regulation not inconsistent with this Act and for the better carrying into effect the purposes and provisions of this Act and without prejudice to the generality of the foregoing may make regulations -

- (a) prescribing the procedures to be followed in any proceeding before conciliator or the court;
- (b) prescribing such abstract of this Act and such notice in such language or languages as he may think fit and providing for the publication of award and notices, display and dissemination of the same by employers and trade union.

Repeal
Cap. 171.

34. The Trade disputes (Arbitration and settlement) Decree chapter 171 of the Laws of Zanzibar is hereby repealed (herein after referred as the repealed law).

Saving.

35. Notwithstanding the repealed law -

- (a) All directions under repealed law which are in force in the effective date shall be deemed to be directions given or as the case may be, rules made under this Act by the relevant authority, and shall remain in force until revoked by regulations made under this Act;
- (b) any proceeding pending immediately before the commencement of this Act relating to any trade dispute shall be dealt with in accordance with the provisions of the repealed law;



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(c) any act lawful done under the provisions of the repealed law shall be deemed to have been done under the provisions of this Act.

Passed in the House of Representatives on the 22nd day of March, 1994.

K. J. Chande

KHAMIS JUMA CHANDE

CLERK TO THE HOUSE OF REPRESENTATIVES.