

Statutory Instrument No. 146 of 1984

TRADE DISPUTES ACT, 1984
(19 of 1982)

TRADE DISPUTES REGULATIONS, 1984
(Published on 7th December, 1984)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Registration of collective labour agreement etc.
3. Secret ballot in connexion with industrial action by employees in essential service

SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Home Affairs by section 48 of the Trade Disputes Act, 1982, the following Regulations are hereby made —

1. These Regulations may be cited as the Trade Disputes Regulations, 1984. Citation

2. (1) The Commissioner of Labour shall register one copy of any copies of the same collective labour agreement or of the same agreement extending or varying the terms of a collective labour agreement lodged with him in accordance with section 33 (1) of the Act by affixing his date stamp thereto and by recording in a register of collective labour agreements to be kept by him in the form set out in the Schedule hereto — Registration of collective labour agreements etc.

- (a) the fact and date of registration of the copy; and
- (b) the full name and postal address of each party to the agreement.

(2) The Commissioner of Labour shall retain the copy registered in accordance with this regulation with his records and shall serve notice in accordance with section 33 (3) of the Act on every party to the material agreement that he has registered the copy by —

- (a) serving on the party that lodged the registered copy with him a true copy thereof; and
- (b) serving on every other party that lodged a copy of the agreement with him that copy,

after first affixing his date stamp thereto.

3. (1) This regulation shall apply in respect of every secret ballot as defined by the Act (namely, a secret ballot of employees in an essential service held on the question of whether industrial action in furtherance of a trade dispute should or should not be taken by those employees). Secret ballot in connexion with industrial action by employees in essential service

(2) There shall be lodged with the Commissioner of Labour, not less than 3 days immediately before the day on which it is proposed that the ballot be held or commence, for submission to the Minister —

- (a) a written statement setting forth —
 - (i) the nature of the industrial action contemplated;
 - (ii) the steps taken to inform the employees concerned of the nature of the industrial action contemplated and to inform them that no such action may be taken unless the result of the ballot shows that no less than two-thirds of the employees

entitled to vote and actually voting therein are in favour of taking industrial action; and

(iii) the day or days on which, the precise location of the place or places at which and the hours between which it is proposed that the ballot be held; and

(b) a complete list of the full names, residential addresses and places of employment of all those employees entitled to vote in the ballot, which list shall, in the case of every such employee who is a member of a registered trade union, show his union number.

(3) For removing doubts, it is hereby declared that subregulation (2) does not derogate from the generality of section 43 (3) (b)(i) of the Act (which provision requires the Minister to be informed in writing to his satisfaction, not less than 3 days immediately before the ballot is held, of the arrangements made therefor) and the Minister may, so as to satisfy himself of the arrangements made for the holding of the ballot, require to be provided with such further information in such form as he thinks fit and in particular may require to be provided with evidence by affidavit or otherwise of the entitlement of any person to vote in the ballot.

(4) As soon as the Minister is satisfied with the arrangements made for holding the ballot, he shall so inform the Commissioner of Labour.

(5) In the event of there being a trade union that is, by virtue of the Act for the time being providing for the registration of trade unions, the exclusive negotiating body on behalf of the employees concerned, reference is hereby made to section 44 (1) of the Act (which provision empowers the Minister to direct that only members of that trade union shall be entitled to vote in the ballot).

(6) As regards the supervision of the ballot, reference is hereby made to section 44 (2) of the Act (which provision requires the ballot to be supervised by the Commissioner of Labour or by an industrial relations officer or industrial relations officers authorized by him in writing in that behalf or by both the Commissioner of Labour and such officer or officers).

(7) The principal ballot supervisor shall use his best endeavours to give notice to all employees concerned of the day or days on which, the precise location of the place or places at which and the hours between which the ballot is to be held and of the question to be decided by the ballot and may, for this purpose, require any trade union concerned in the ballot to use its like endeavours.

(8) Every place at which the ballot is held shall, throughout the entire period of the ballot at that place, be under the immediate supervision of one or more ballot supervisors who shall keep order at that place and regulate the number of voters admitted thereto at any one time and may exclude therefrom any other persons.

(9) Every place at which the ballot is held shall have a secure room or rooms, booth or booths or other place or places in which voters may vote in the manner prescribed by this regulation without disclosing whether they are voting in favour of or against taking industrial action.

(10) In respect of any place at which the ballot is to be held, the principal ballot supervisor may require any trade union concerned with the ballot to provide to his satisfaction or to the satisfaction of the ballot

supervisor or supervisors at that place, no later than one hour immediately before the time at which the ballot is to commence. —

- (a) such number of enclosed ballot booths as the principal ballot supervisor may specify, each constructed of opaque material and being not less than 2,40 m long, 1,80 m wide and 2,10 m high;
 - (b) such number of chairs and tables as the principal ballot supervisor may specify; and
 - (c) 2 ballot boxes, one to receive the ballot tokens of those voting in favour of taking industrial action and the other to receive the ballot tokens of those voting against taking industrial action, each of which shall be clearly distinguished from the other by colour or by notice affixed thereto or otherwise so as to assist voters to place their ballot tokens in the appropriate box.
- (11) Each ballot box shall be so constructed that ballot tokens can be freely inserted therein but cannot be withdrawn therefrom unless the box is unlocked or cut or broken open.

(12) A ballot supervisor shall —

- (a) at the entrance to each room, booth or other place in which votes are to be cast, affix a notice clearly stating that the question to be decided by the ballot is whether industrial action in furtherance of the trade dispute in question should or should not be taken; and
 - (b) take all such steps or further steps as seem to him necessary to explain to voters the purpose of the ballot and the method of voting.
- (13) A ballot supervisor shall, immediately before the commencement of the ballot at any place, show each ballot box empty to such representatives of the employees concerned or of any trade union concerned in the ballot who may be present and who have previously made their presence known to the ballot supervisor and to such other persons as may be present so that they may be satisfied that the box is empty and shall thereafter ensure that it is sealed in such a manner as to prevent its being opened without breaking the seal.

(14) The ballot shall be conducted in the following manner and sequence —

- (a) every employee entitled to vote in the ballot and wishing to do so shall, within the hours between which the ballot is being held, present himself to a ballot supervisor at a ballot place and shall identify himself by producing his current union card;
- (b) the ballot supervisor shall mark off the name of the voter on the list or a true copy of the list lodged with the Commissioner of Labour in accordance with subregulation (2) (b);
- (c) the ballot supervisor shall deliver to the voter a ballot token marked with an official mark in such form as the Commissioner of Labour shall direct; and
- (d) the voter shall then enter the secure room, booth or other place provided for voting or one of such secure rooms, booths or other places (if there are more than one) and shall vote either in favour of taking industrial action in furtherance of the trade dispute in question or against taking such action by placing his ballot token in the appropriate one of the 2 ballot boxes therein and shall immediately leave the room, booth or other place.

(15) The ballot supervisor or supervisors at any ballot place shall ensure that no more than one person is in any secure room, booth or other place provided for voting at any one time.

(16) A ballot token unmarked with an official mark shall be void and shall not be counted.

(17) The ballot supervisor or supervisors at each ballot place shall, as soon as practicable after the close of each day of balloting (if there are more than one), seal each ballot box and the ballot boxes shall then be locked by the ballot supervisor or supervisors in a secure place.

(18) The employees concerned or any trade union concerned in the ballot may nominate not more than 3 representatives to attend at the counting of votes when the ballot is at an end.

(19) As soon as practicable after the ballot is at an end at any place, the ballot supervisor or supervisors at that place shall, in the presence of such representatives nominated under subregulation (18) as are in attendance, to proceed count and make a written record of the votes cast at that place in favour of taking industrial action on the one hand and of the votes cast at that place against taking industrial action on the other hand and shall, except in the case of a ballot held at more than one place, thereafter record the result of the ballot in writing and thereafter that result shall be published in such manner as the principal ballot supervisor shall determine.

(20) Where the ballot is held at more than one place, the ballot supervisor or supervisors at each such place shall, after completing the written record of the votes cast at that place in accordance with subregulation (19), forthwith transmit that record, together with the list or the copy of the list lodged with the Commissioner of Labour in accordance with subregulation (2) (b) on which the names of voters at that place have been marked off, to the principal ballot supervisor.

(21) The principal ballot supervisor shall, on receipt of all the written records and lists transmitted to him in accordance with subregulation (20), add together and make a written record of the votes cast in favour of taking industrial action on the one hand and of all the votes cast against taking industrial action on the other hand and shall thereafter record the result of the ballot in writing and thereafter that result shall be published in such manner as he shall determine.

(22) As regards the result of the ballot, reference is hereby made to section 43 (3) (b)(iii) of the Act (by virtue of which provision, industrial action in furtherance of the trade dispute in question shall not be taken by the employees concerned unless the result of the ballot shows that no less than two-thirds of those employees entitled to vote and actually voting therein are in favour of taking such action).

(23) In this regulation, —

(a) every reference to a ballot supervisor or to ballot supervisors shall be construed as a reference to any officer or officers supervising the ballot in accordance with section 44 (2) of the Act; and

(b) every reference to the principal ballot supervisor shall be construed, —

(i) where the ballot is being supervised by one ballot supervisor, as a reference to that supervisor; or

(ii) where the ballot is being supervised by more than one ballot

supervisor, as a reference to the Commissioner of Labour or such ballot supervisor as the Commissioner of Labour may designate as the principal ballot supervisor for the purposes of the ballot.

SCHEDULE

(r.2 (1))

RECORD OF COLLECTIVE LABOUR AGREEMENT

A certified true copy of the Collective Labour Agreement concluded on the day of....., 19....., between —

(a)
(full name of party)

of
(postal address of party)

(b)
(full name of party)

of
(postal address of party)

(c)
(full name of party)

of
(postal address of party)

(d)
(full name of party)

of
(postal address of party)

was duly registered by me this day of , 19.....

.....
Commissioner of Labour.

**RECORD OF AGREEMENT EXTENDING OR VARYING THE TERMS OF
THE COLLECTIVE LABOUR AGREEMENT**

A certified true copy of an Agreement concluded on the
day of, 19.....,
extending/varying/extending and varying the terms of the above recorded Collective
Labour Agreement was duly registered by me this.....
day of, 19.....

.....
Commissioner of Labour.

MADE this 22nd day of November, 1984.

E.M.K. KGABO,
Minister of Home Affairs.

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