

BILL

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THE INDUSTRIAL RELATIONS AND TRADE UNION ACT, 2023

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SCHEDULES

No.

2023



Sierra Leone

A BILL ENTITLED

THE INDUSTRIAL RELATIONS AND TRADE UNION ACT, 2023 Short title.

Being an Act to repeal the Regulation of Wages and Industrial Relations Act, 1971 (Act No. 18 of 1971) and the Trade Union Act, (Cap 221).

[

] Date of
commencement.

ENACTED BY THE PRESIDENT AND MEMBERS OF PARLIAMENT IN
THIS PRESENT PARLIAMENT ASSEMBLED

PART I—PRELIMINARY

Interpretation.

1. In this Act unless the context otherwise requires -

"assessor" means an official appointed to assist a Judge in the Industrial Court;

"authorised officer" means the Commissioner of Labour and Employment or any other officer acting on his behalf and appointed by the Public Service Commission for carrying into effect of this Act;

"award" means a judgment or decision by the Court;

"business" means any trade, undertaking, operation and establishment, whether corporate, public or private;

"check-off" means the system of deducting union dues from the wages or salary of a worker by an employer;

"Commissioner " means the Commissioner of Labour appointed by the Public Service Commission under section 4;

"compensation" means compensation as provided for by this Act;

"Congress" means the Sierra Leone Labour Congress being the most representative organisation of workers;

"contract of employment or service" means a contract or agreement containing the conditions and terms of employment or service, whether written or oral, whether expressed or implied, individually or collectively, for a definite or indefinite period, whereby a worker agrees in return for wages or other remunerations to work for an employer or employing organisation or institution or business establishment, including a contract of apprenticeship, in the public or private sector;

"Court" means the Industrial Court or a court of competent jurisdiction;

"dispute" includes differences concerning employment contracts between an employer and a worker arising from terms and conditions of service of workers;

"earnings" include wages, allowances in respect of increase in cost of living paid to a worker by an employer, the value of food, fuel or accommodation, overtime payment, other special remuneration or benefit in kind;

"employer" means any person or group of persons including a government, any firm, corporation or company, a public or local authority, a partnership or business, or any other entity whatsoever for whom one or more workers work or have worked or normally work under a contract of employment and includes any person, heirs, successors or assignees, or any firm, corporation, company, authority or body who is placed in authority over all other workers employed by such person or group of persons, firm, company, corporation, or authority;

"employers' organisation" means an organisation of employers that has among its principal objects the regulation of collective relations between employers and workers;

"employment and occupation" include access to vocational training, access to employment and to particular occupations and terms and conditions of employment;

"environment" means a working environment or premises in which work is done by a worker;

"Federation" means the Sierra Leone Employers' Federation being the most representative organisation of employers;

"health" means the physical and mental elements affecting health which are directly related to safety and hygiene at work;

"industrial action" means a concerted withdrawal of labour or restriction upon the availability or quantity of labour on the part of workers, and any lock-out by which one or more employers deny work and wages to workers and such conducts shall not cease to constitute industrial action by reason only of the fact that the contract of employment expressly or impliedly permits such industrial action;

"industrial court" means a division of the High Court designated to adjudicate disputes between employers and workers over employment rights and industrial disputes;

"Joint Consultative Committee" means an advisory committee on labour matters referred to in section 12;

"Joint National Negotiating Board" means the Joint National Negotiating Board for workers referred to in section 14;

"Judicial and Legal Services Commission" means a body established under section 140 of the Constitution of Sierra Leone, 1991 (Act No. 6 of 1991) with a mandate to advise the Chief Justice in the performance of his administrative functions and to regulate the activities of members of the Judiciary;

"Labour Official" means an officer appointed by the Public Service Commission under section 4;

"lock-out" means a total or partial closing of a place of employment or the suspension of work by one or more employers, or the refusal by an employer to employ a number of persons employed by him in consequence of a dispute, done with a view to compelling those persons to accept terms and conditions affecting the employment, but does not include the closing of a place of employment for the protection of property or persons therein;

"Minister" means the Minister responsible for labour and ministry shall be construed accordingly;

"national minimum wage" means the existing national minimum wage fixed by the Joint National Negotiating Board;

"person" means a person or group of persons, company, firm, corporation or any other kind of body including their agents;

"Public Service Commission" means a body established under sub-section (1) of section 151 of the Constitution of Sierra Leone, 1991 (Act No.6 of 1991);

"registered" means registered trade unions and employers' organisations under this Act;

"Registrar" means the Registrar of trade unions and employers' organisation;

"representative of employers and workers" mean a person who have been designated and eligible for appointment to the Joint Consultative Committee by the Federation and the Congress respectively;

"strike" means the cessation of work by a group of persons employed acting in combination, or a concerted refusal or refusal under a common understanding by any number of persons employed to continue to work for an employer in consequence of a labour dispute, done as a means of compelling their employer or any person or group of persons employed to accept or not to accept terms or conditions of or affecting employment; and includes any concerted interruption of work or slowing down by workers commonly known as "sit-down-strike" or "a-go-slow" attempted or effected by workers for the reasons aforesaid, but, in agricultural undertakings, does not include delay in the conclusion of customary arrangements between workers as to the size and nature of a task;

"supervisor" means a worker who performs managerial functions including the hiring and firing for an employer or who it is agreed between an employer and a trade union to which the Minister has issued a Collective Bargaining Certificate;

"trade dispute" means a disagreement or difference between employers and workers connected with the employment or the terms of employment or with the conditions of labour of a worker, and includes a dispute connected with to any of the following-

- (a) terms and conditions of employment including remuneration for employment;
- (b) the engagement of a worker;
- (c) the times at which, or the conditions under which any work is, or is not performed;
- (d) the demotion, suspension or imposition of any other penalty or discipline of a worker;
- (e) the termination of any agreement by which work is to be performed;
- (f) the grievance or complaint of a worker in respect of his employment;
- (g) the machinery for negotiating matters specified in paragraphs (a) to (f) or for the settlement of a grievance or dispute relating to a worker or other work-related dispute.

"Trade Group Council" means a Trade Group Negotiating Council established under section 27;

"trade union" means an organisation of workers that has among its principal objects the regulation of collective relations between workers and employers;

"wage" means remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable by virtue of a written or unwritten contract of employment by an employer to a worker for work done or to be done or for services rendered or to be rendered;

"week" means a period of 5 working days;

"workplace" means a place where workers need to be or to go by reason of their work and which are under the direct or indirect control of their employer;

"worker" means a person who has entered into or works under a contract of employment or other contract with an employer, whether the contract is of manual labour, clerical work or otherwise, expressed or implied and whether it is a contract of service or a contract concerning learning or a contract personally to execute work or labour and includes an outworker, and a worker of Government.

PART II:-ADMINISTRATION AND JURISDICTION

2. (1) This Act shall apply to all workers in the Republic of Sierra Leone, except the Republic of Sierra Leone Armed Forces and the Sierra Leone Police. Application of Act.

(2) In the event where there is conflict or inconsistency between this Act and that of any other written law relating to industrial relations, this Act shall prevail.

(3) The Minister may, after consultation with the Joint Consultative Committee, by statutory instrument, -

- (a) exempt a person or class of persons, trade, industry or undertaking whose terms and conditions of employment are governed by special arrangements from the application of all or any of the provisions of this Act or regulations made under it;
- (b) extend the application of this Act to any category of persons excluded under subsection (1).

Administration. 3. (1) The Commissioner acting under the authority of the Minister, shall be responsible for the administration of this Act.

(2) The Commissioner may, subject to subsection (1), delegate the exercise of any of his powers and the performance of any of his duties, generally or in part, to a Director, Labour Officer or other authorised officer and may revoke such delegation by written notice at any time.

PART III - THE COMMISSIONER OF LABOUR AND LABOUR OFFICERS

Appointment of officers. 4. The Public Service Commission shall appoint the Commissioner of Labour and Labour officials, including Directors, as may be necessary for the purposes of the implementation of this Act.

Commissioner of Labour. 5. (1) The Commissioner shall be responsible for labour inspection, including -

- (a) securing the enforcement of terms and conditions of employment and work;
- (b) the protection of workers from discrimination at work;
- (c) the provision of technical information and legal advice to employers, workers and their organisations;

-
- (d) bringing to the notice of the Minister, defects or abuses not specifically covered by this Act.

(2) For the purpose of carrying out his functions under subsection (1), the Commissioner shall have power to -

- (a) enter a workplace liable to inspection, at any hour of the day or night, without obstruction or previous notice;
- (b) enter a premises which he may have cause to believe to be liable to inspection and carry out an examination, test or inquiry which he may consider necessary in order to satisfy himself that the provisions of this Act are being strictly observed, and in particular-
 - (i) question, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of this Act;
 - (ii) require the production of books, registers or other documents the keeping of which is prescribed by law or regulation relating to conditions of work, in order to ensure that they are in conformity with this Act and to copy such documents or make extracts from them;
 - (iii) enforce the posting of notices required by this Act.
- (c) by order, require a person to provide a remedy for victimization of, or retaliation against a complainant, witness or whistleblower.

- (d) order the temporary seal of a workplace or the discontinuation of a work process after prior warning to the employer and after due consultation with the Minister and other relevant authorities,-
 - (i) for non-compliance with this Act or regulations made under it; or
 - (ii) on an imminent danger to the safety and health of workers;
- (e) institute civil or criminal proceedings in a court of law in respect of a contravention or alleged contravention of this Act or regulations made under it.

Labour
Official.

6. A Labour Official acting on behalf of the Commissioner shall have the power to -

- (a) enter, investigate, inspect, examine, verify and assess employment and labour matters at all times, whether by day or by night a workplace and every part thereof, land or premises, organisation, institution or business establishment, fishing vessels, ferries, cargo ships or any other place, where he has reasonable cause to believe that a person is employed therein;
- (b) question, either alone or in the presence of any other person, a person whom he has cause to believe to be, or to have been a person to whom this Act applies, in connection with a matter to which this Act applies;
- (c) order the production of records of wages or any other relevant document required to be kept by employers, and to inspect and examine the same, and copy any material part thereof;

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- (d) take with him a police officer if he has reasonable cause to believe that there may be serious obstruction in the execution of his duty;
 - (e) investigate complaints from workers and employers alike concerning violations of terms and conditions of employment;
 - (f) invite or summon an employer or worker to a conciliatory meeting;
 - (g) advocate, prosecute, conduct or defend before a Industrial Court charge, information, complaint or other proceedings arising under this Act, or in the discharge of his duty.

7. Subject to such exceptions as may be prescribed, the Commissioner or a Labour Official shall -

Conduct of
Commissioner
and labour
officials.

- (a) not have a direct or indirect interest in an undertaking or labour matter under his supervision or over which he presides;
- (b) not disclose information obtained by him in the exercise of duties under this Act, except so far as such information may be necessary for the performance of his duties;
- (c) treat, as absolutely confidential, the source of a complaint bringing to his notice a defect or breach of this Act and shall give no information to an employer or worker or his representative that action was taken in consequence of the receipt of such complaint.

8. The Commissioner or a Labour Official shall not be personally liable for any action done whatsoever if the action is reasonably done in pursuance of this Act or in the exercise of his powers under this Act.

Indemnity of
Commissioner
and Labour
Official.

Obstruction
of
Commissioner
or Labour
Official.

9. (1) A person or institution shall not-

- (a) wilfully delay or obstruct the Commissioner or a Labour Official in the exercise of his power, duty or function under this Act;
- (b) hinder, prevent or molest the Commissioner or a Labour Official in the exercise of his power, duty or function under this Act;
- (c) fail to comply with or honour a direction, order, requirement or request for information or document, demand or inquiry of the Commissioner or a Labour Official, made or given in pursuance of a power, duty or function conferred upon him by this Act or regulations made under it;
- (d) fail to honour a letter of invitation to a conciliation meeting with respect to a labour matter reported;
- (e) provide inaccurate or deficient record or information to the Commissioner or a Labour Official with an intention to defraud or to conceal a fraudulent act;
- (f) conceal or attempt to conceal or otherwise prevent a person from appearing before, being examined by the Commissioner or a Labour Official;

(2) A person who contravenes subsection (1) commits an offence and upon conviction shall be liable to a fine not less than 3 months national minimum wage in respect of each offence or to a temporary closure of the workplace.

PART IV - COMPLAINT AND SETTLEMENT OF INDUSTRIAL
DISPUTE.

10. (1) An aggrieved party may make a complaint to the Complaint to
Commissioner.
Commissioner where -

- (a) an employer or worker neglects or refuses to fulfil a contract of employment or service;
- (b) a question, difference or dispute arises -
 - (i) as to the rights or liabilities of either party;
 - (ii) touching a misconduct, neglect or ill treatment of either party; or
 - (iii) an injury to the person or property of either party, under a contract of service.

(2) The Commissioner may, for the purposes of subsection (1) -

- (a) assess the value of services rendered by a worker, or in any case, where -
 - (i) the rate or amount of wages or allowances to which a worker should be entitled have not been agreed upon between the employer and worker; or
 - (ii) it is not certain what terms were agreed, decide the relative rights of the employer and worker; and may make such directions as in his opinion meets the justice of the case; and
- (b) if in the opinion of the Commissioner, the complaint appears to be difficult to resolve, refer the complaint to the Industrial Court.

Legal
representation
not required
in
conciliatory
meeting.

11. Unless the Commissioner deems it necessary, legal representation shall not be required in a conciliatory meeting under paragraph (f) of section 6.

PART V - THE JOINT CONSULTATIVE COMMITTEE AND THE
JOINT NATIONAL NEGOTIATING BOARD

Joint
Consultative
Committee.

12. (1) There shall be a Joint Consultative Committee which shall consist of-

- (a) the Commissioner, who shall be Chairman and 5 other officials of the Ministry; and
- (b) an equal number of representatives of 10 each from employers and workers, appointed by the Minister, in consultation with Congress and the Federation, by notice published in the Gazette'.

(2) An appointment under sub-section (1) shall be for a period of 5 years.

(3) A person appointed under paragraph (a) of subsection (1), shall be not removed from the Committee before the expiration of his term of appointment, except on any of the following grounds-

- (a) inability to perform the functions of his office by reason of infirmity of mind or body;
- (b) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted and sentenced for an offence involving fraud or dishonesty;
- (e) if he fails to attend 3 consecutive meetings of the Committee without reasonable cause;
- (f) has lost membership in his organisation.

(4) The Committee shall meet for the discharge of its business at least once every 3 months and shall be entitled to allowances as the Minister may approve.

(5) The Chairman shall preside at every meeting of the Committee, and in his absence, the members present shall appoint a member from among themselves to preside.

(6) The Committee shall, subject to this Act, regulate its own procedure.

13. (1) The Committee shall advise the Minister on matters relating to Labour and employment including -

Functions
of
Committee.

(a) the formulation and implementation of government Labour and employment policy, including policy on -

(i) basic conditions of employment;

(ii) the principle of equal remuneration for men and women for work of equal value; and

(iii) health, safety and welfare at work;

(b) proposals for the review and update of labour or industrial relations legislation;

(c) the promotion of collective bargaining;

(d) matters concerning relations between Sierra Leone and the International Labour Organisation and related bodies;

(e) such other responsibilities as may be assigned to it by the Minister.

Joint
National
Negotiating
Board.

14. (1) There shall be a Joint National Negotiating Board which shall consist of -

- (a) 9 members nominated by the Congress ;
- (b) 9 members nominated by Federation; and
- (c) 2 members nominated by Government

(2) The Chairman, Vice-chairman and other members of the Joint National Negotiating Board shall hold office for 2 years from the date of their respective appointments but shall be eligible for reappointment.

(3) The Minister shall appoint a nominee of the Congress and the other by a nominee of the Federation to fill the positions of Chairman and Vice-chairman of the Joint National Negotiating Board respectively, on a 2 year rotational basis.

(4) When the Chairman, Vice-chairman or any other member of the Joint National Negotiating Board is for good reason temporarily unable to perform his functions and until such time as the Minister appoints some other person to act for the Chairman, Vice-chairman or any other member, the Joint National Negotiating Board may appoint one of their number so to act.

(5) The Minister shall appoint a secretary and such other officer as he deems fit to the Joint National Negotiating Board but such secretary and other officers shall not be members of the Joint National Negotiating Board.

(6) The quorum at a meeting of the Joint National Negotiating Board shall be 10 members, so however that the number of members representing the Congress is equal to the number of members representing the Federation.

(7) The Chairman and other members of the joint national negotiating Board shall have one vote at any meeting of the Joint National Negotiating Board

(8) If at a meeting of the Joint National Negotiating Board, the number of members representing employers and workers is unequal the side which is in the majority shall arrange that one or more of its members refrain from voting so as to preserve equality.

(9) The Joint National Negotiating Board may, if it thinks fit, delegate any of its powers except its powers under section 15, to a committee consisting of members from either side, so however that the members of the committee representing employers and members of the committee representing workers shall be equal in number.

(10) The Joint National Negotiating Board may appoint such number of persons who, in the opinion of the Joint National Negotiating Board, have expert knowledge of a matter with which the Joint National Negotiating Board enquiry is concerned.

(11) A person appointed under subsection (10), shall not vote or otherwise be a party to a report or recommendation of the Joint National Negotiating Board.

(12) The Minister may make rules providing for-

- (a) filling of vacancies on the Joint National Negotiating Board caused by death, resignation or absence of any member of the Joint National Negotiating Board;
- (b) fixing of rate of remuneration and expenses to be paid to a member of a Joint National Negotiating Board.

(13) Subject to this Act and to regulations made under it, the Joint National Negotiating Board may regulate its procedure in such manner as it thinks fit.

(14) Members and assessors of the Joint National Negotiating Board shall be paid such remuneration, such as travelling and other allowances as the Minister may approve and all such remuneration and allowances shall be paid out of the Consolidated Funds subject to the approved of Parliament.

Powers of
Joint
National
Negotiating
Board.

15. (1) The Joint National Negotiating Board shall have the sole power to -

- (a) fix national minimum rate of pay, paid public holidays and maximum hours of work including overtime for all employed persons; or
- (b) cancel or vary a minimum rate of pay fixed, at the petition of a majority of members of the Joint National Negotiating Board representing workers or employers, if it is of the opinion that there has been a substantial change of circumstances since the rate was fixed.

(2) The national minimum rate of pay, paid public holidays and maximum hours of work including overtime fixed by the Joint National Negotiating Board under subsection (1), shall not be applicable where more favourable paid public holidays and maximum hours have been agreed by a Trade Group Council.

(3) The Joint National Negotiating Board shall publish the national minimum rates of pay, paid public holidays and maximum hours of work including overtime which it has fixed, together with a statement setting out the reasons for fixing such national minimum rates of pay, paid public holidays and maximum hours at work.

(4) The Joint National Negotiating Board may make provisions for the employment of -

- (a) disabled persons at less than the rates of pay and hours of work determined and fixed under paragraph (a) of subsection (1), subject to a disabled person being in possession of a certificate issued to him by the Commissioner exempting the employer concerned from such statutory rates of pay and hours of work;

- (b) young person by the head of a family or members of such family, in a family business, subject to the requirements of the law, in particular sections 41-44 of the Employment Bill, at less than the rates of pay and hours of work fixed under this section;
- (c) persons who are learning a trade or occupation, lower minimum rates of pay, if the Joint National Negotiating Board determines that it is necessary to secure their effective instruction, and subject to conditions set by the Board;
- (d) micro, small and medium enterprises informal economy employer employing less than 5 workers.

(5) The Joint National Negotiating Board shall, before exercising its powers under subsection (4), give notice of its proposals and consider an objection to the proposal from an aggrieved party lodged with it within 30 days from the date of the notice.

(6) The Joint National Negotiating Board shall not, without the consent of the Commissioner, give notice of a proposal to vary the rate of employment under subsection (1).

(7) The Joint National Negotiating Board shall, in the exercise of its powers under this section, give effects to the principle of equal remuneration for men and women for work of equal value.

16. (1) The Joint National Negotiating Board shall, where it has fixed a minimum rate of pay, cancelled or varied such rate, give at least 60 days prior notice to the Commissioner, of its decision, including a statement as to the date on which the minimum rate, cancellation or variation of the rate should come into operation.

Confirmation,
cancellation
or variation
of minimum
rate.

(2) The Commissioner shall, on receipt of a notice under subsection (1), without delay, submit the notification, cancellation or variation to the Minister who shall by statutory instrument make a national minimum rate of pay regulation for ratification by Parliament.

(3) The submission by the Minister of the minimum rate regulation to Parliament for ratification under subsection (2) shall be subject to an appeal to the Minister by an aggrieved party to be lodged within 30 days of the receipt of such notification from the Commissioner.

(4) A minimum rate, or the cancellation or variation of such rate, shall, in the absence of an appeal or if such appeal has been disallowed by the Minister and subject to Parliament approval become effective as from the date specified by the regulation.

(5) The national minimum rate of pay fixed by regulation under subsection (4) shall remain in operation for a maximum period of 2 years from the date approved by parliament or until a new rate is fixed.

(6) An employer who pays wages to a worker below the national minimum wage shall be liable to a fine not less than 20 months national minimum wage.

Dissolution
of Joint
National
Negotiating
Board.

17. (1) The Minister shall, at any time after consultation with Congress and the Federation, by notice published in the Gazette, dissolve the Joint National Negotiating Board.

(2) A dissolution of the Joint National Negotiating Board under subsection (1) shall be without prejudice to any acts or recommendations of the Joint National Negotiating Board made prior to its dissolution.

Penalty for
non-payment
of confirmed
national
minimum
wage.

18. (1) Where a national minimum rate of wages has been confirmed under this Act, an employer shall, in cases to which the minimum rate is applicable, pay wages to a worker at not less than the minimum rate clear of all deductions, and, if he fails to do so, shall be liable in respect of each minimum offence to a fine not less than 20 months national rates of wages.

(2) Where an offence for which the employer is liable to a fine under subsection (1) has been committed by an agent of the employer or by some other person, that agent or other person shall be liable to be prosecuted for the offence in the same manner as if he were the employer, and either together with, or before or after the employer, and shall be liable to the same fine as that to which the employer is liable.

(3) Where an employer who is charged with an offence under this section proves to the satisfaction of the Court that he has used due diligence to enforce the execution of this section, and that the offence was in fact committed without his knowledge, consent or connivance, he shall, in the event of that agent or other person being found guilty of committing the offence, be exempted from any fine.

(4) The power of the Court under subsection (1) of section 20, to order an employer to pay a sum which appears to the Court to be due to a worker on account of wages, shall be without prejudice to whether or not an agent or some other person is found guilty of committing an offence under this section.

(5) Where the immediate employer of a worker to whom a national minimum rate of wages applies, is himself in the employment of some other person, and the worker is employed in the premises of that other person, that other person shall, for the purposes of this Act relating to the penalty for not paying wages in accordance with the rate, be deemed to be the employer of the worker jointly with the immediate employer.

19. A worker or person authorised by a worker, may complain to the Commissioner that the wages paid to the worker by the employer for work to which a minimum rate has been fixed by the Joint National Negotiating Board, are at a rate less than the minimum rate, and the Commissioner shall consider the matter and may, if he thinks fit, take proceedings under this Act, on behalf of the worker.

Consideration
of
complaints
by
Commissioner
to infraction
of minimum
rate.

Recovery of
arrears.

20. (1) Where an employer has been convicted for failing to pay wages at less than the national minimum rate to a worker under section 18, the Court may order the employer to pay, in addition to a fine, such sum as appears to the Court -

- (a) to be due to the worker on account of wages for the period during which the offence is alleged and found to have been committed, the wages being calculated on the basis of the minimum rate; or
- (b) represents the difference between the amount which ought to have been paid to the worker during that year and the amount actually paid by the employer.

(2) Nothing in subsection (1) shall derogate from any right of the worker to recover wages by any other proceedings.

(3) Where it appears to the Commissioner that a sum is due from an employer to a worker by reason of the fact that wages have been paid to that worker at less than the minimum rate applicable, and that it is not possible to recover the sum so appearing to be due, or some part of that sum, the Commissioner may, if it appears expedient to do so, take necessary proceedings before a Court for the recovery of the said sum from the employer.

Prevention
of evasion.

21. A proprietor, shopkeeper, dealer or trader, who by way of trade makes an agreement, express or implied, with a person, in pursuance of which that person performs work for which a minimum rate of wages has been fixed under this Act, shall be deemed, for the purpose of this Act, to be the employer of that person, and the net remuneration obtainable by that person in respect of the work, after allowing for his necessary expenditure in connection with the work, shall be deemed to be wages.

22. (1) Where a worker in an occupation, being a person to whom a minimum rate of wages fixed by the Joint National Negotiating Board of applies, is an apprentice or learner, it shall not be lawful for his employer to receive directly or indirectly from the apprentice or learner, or on his behalf or on his account, any payment by way of premium.

Prohibition of receipt of premium where minimum rate is in force.

(2) An employer who contravenes subsection (1), commits an offence and is liable in respect of each offence to a fine not less than 24 months national minimum wage, and the Court may, in addition to imposing a fine, order him to repay to the worker or other person by whom the payment was made the sum improperly received by way of premium.

23. (1) An employer who employs persons to whom a minimum rate of wages fixed by the Joint National Negotiating Board or a Trade Group Council is applicable, shall keep such records of wages as are necessary to show that this Act are complied with in relation to such persons.

Employer to keep record of wages.

(2) An employer who contravenes subsection (1), commits an offence and is liable upon conviction to a fine not less than 2 months national minimum wage.

(3) A person who-

- (a) makes, or cause to be made, or knowingly allows to be made;
- (b) produces or causes to be produced, or knowingly allows to be produced; or
- (c) furnishes information to a labour officer, a wage sheet or a record of wages or payments, which is false in any material particular, knowing the same to be false,

commits an offence and upon conviction shall be liable to a fine not less than 15 months national minimum wage.

Void
Agreement.

24. (1) An agreement for the payment of wages in contravention of this Act is void.

(2) Subsection (1) is not a bar to a worker from being paid for work performed in the past and such payment shall be made in accordance with this Act.

Agreed terms
to be
observed by
employer.

25. (1) Subject to subsection (2), where a signed collective bargaining agreement has been submitted to the Commissioner for publication in the Gazette under section 33, an employer of the workers or group of workers specified therein shall, with immediate effect, observe the agreed terms and conditions of employment not less favourable than such recognised terms and conditions.

(2) Where a worker or group of workers in respect of whom a Trade Group Council has agreed upon terms and conditions of employment is employed as a worker or group of workers in respect of whom wages have already been fixed by the Joint National Negotiating Board or a Trade Group Council in accordance with section 21 the wages payable to such worker or group of workers shall be the wages fixed by such Joint National Negotiating Board or Trade Group Council.

Prosecution
proceedings.

26. (1) Prosecution proceedings under this Act shall be instituted by an aggrieved person or party, trade group council, employer or a trade union by referring the matter to the Commissioner for further investigation before taking such matter to the Industrial Court;

(2) A matter referred to the Commissioner under subsection (1) shall be resolved within 21 working days upon receipt of the complaint, failing which the matter may be taken before an Industrial Court by a Labour Official, or trade union official.

PART VI - REGULATION OF TRADE UNIONS AND
EMPLOYERS ORGANISATION

27. (1) There is hereby established trade group negotiating councils to be called Trade Group Councils for each of the following trade groups- Establishment of Trade Groups Councils.

- (a) exploration and mining;
- (b) building and construction;
- (c) commercial;
- (d) shipping and forwarding (public/private);
- (e) industrial;
- (f) oil (marketing and refinery);
- (g) public utilities;
- (h) banking, insurance and accounting;
- (i) hotels, catering and entertainment;
- (j) printing;
- (k) transport (road, rail and inland waterways);
- (l) municipal and local government;
- (m) agriculture (public/private);
- (n) air transport (public/private);
- (o) teaching services (public/private);
- (p) fishing;
- (q) civil service;
- (r) services (public or private);
- (s) information and communication technology;
- (t) health services (public or private).

(2) The Minister may, by notice published in the Gazette, after consultation with Congress and the Federation, add new trade groups and corresponding Trade Group Councils as and when the circumstances in his opinion warrant such addition.

(3) Where there is difficulty in agreeing in which trade group a new trade union or industrial concern should feature, the Congress and the Federation shall refer the matter to the Joint Consultative Committee which shall make recommendations to the Minister regarding placement in the appropriate trade group of a new trade union or industrial concern.

(4) Upon the receipt of the recommendation under subsection (3), the Minister shall, unless he thinks it necessary to refer the matter back to the Joint Consultative Committee, as soon as may be possible, issue an order establishing the new trade groups and corresponding Trade Group Council.

Composition
of Trade
Group
Councils.

28. (1) A Trade Group Council shall comprise an equal number of representatives of employers and representatives of trade unions representing workers in the trade group.

(2) Both sides of a trade group may jointly, in the event of a disagreement, request the Minister to appoint an independent chairman members if they are of the opinion that in the particular circumstances of that trade group, the proceedings of their Trade Group Council will be facilitated by such appointment.

Check-off
system of
collecting trade
union dues

29. (1) Upon the request of a trade union to whom a collective shall bargaining certificate has been issued, the employer or employers concerned introduce the check-off system of collecting trade union dues.

(2) A unionised member opting out of a union shall notify the union in writing within 3 months by filling a cessation form and forward it to the union and a copy to management.

(3) Management shall, upon receipt of a cessation form undersubsection (2), inform the Commissioner in writing with copies attached for verification.

(4) A employer or trade union who is in breach of this section shall, upon conviction pay a fine not less than 3 months national minimum wage.

30. A Trade Group Councils shall have the power to -

Power of
Trade Group
Council.

- (a) peacefully and in good faith negotiate wages, terms and conditions of employment for employed persons, consistent with the financial resources of the respective trade groups and the mutual advantages to be derived from the success of enterprises in terms of providing wage-earning employment and retirement security;
- (b) eradicate industrial conflict by harmonising the aspirations of management and workers;
- (c) create such mutual confidence between management and workers as will serve their best interests;
- (d) promote management and worker education programmes designed to increase consciousness of each other's difficulties, the benefits of improved skills and high productivity and of respect for each other's property;
- (e) give effect to the principle of equal remuneration for men and women for work of equal value, and
- (f) give advice on interpretation in dispute between an employer and worker.

31. A Trade Group Council shall be responsible to -

Functions of
Trade Group
Council.

- (a) agree to wages, terms and conditions of employment or service within the trade group to which it refers;

- (b) fix holidays with pay; during a holiday so fixed, a worker shall not receive from his employer less than the rate of pay prescribed by the Joint National Negotiating Board or trade group council for such worker;
- (c) fix overtime rates of pay in respect of hours worked in any week or in any day by all or any of the workers in relation to whom the Joint National Negotiating Board or trade group council operates in excess of the number of hours declared by the Joint National Negotiating Board or trade group council to be normal number of hours of work per week or day for such workers.

Lodging of
collective
bargaining
agreement.

32. (1) A collective bargaining agreement arrived at by a Trade Group Council shall be lodged with the Commissioner by the Trade Group Council.

(2) On the lodging of the collective bargaining agreement under subsection (1), the Commissioner shall consider the agreement and within 14 days of receipt;

- (a) Gazette the agreement without amendment;
- (b) with the consent of the parties, Gazette the agreement with such amendment or modifications as he may consider necessary; or
- (c) refuse to Gazette the agreement and refer it back to the parties for further negotiation for any of the reasons set out in subsection (3).

(3) In accordance with paragraph (d) of subsection (2), the Commissioner may refuse to register a collective agreement on any of the following grounds-

- (a) if conflicts with any of the provisions of this Act, the Constitution or any other law;
- (b) there is in force, an unexpired collective agreement relating to workers covered by the collective agreement submitted for registration;
- (c) the agreement provides for terms and conditions of employment less favourable to workers than those provided by law or an existing collective agreement.

(4) An affected party may appeal to the Minister or the Industrial Court against a refusal by the Commissioner to register an agreement.

33. (1) A registered collective agreement shall be binding on the parties to the agreement if it has been duly signed by the parties concerned on behalf of the employers and workers operating within the trade group.

Status of
collective
agreement.

(2) A Gazetted collective agreement shall be binding on-

- (a) the members of an organisation or trade group operating within the trade group;
- (b) an employer and worker who -
 - (i) were members of such organisations or trade group before the date of the collective agreement;
 - (ii) became members of such organisations or trade group after the date of the collective agreement;
 - (iii) operating in the trade group.

(3) A Gazetted collective agreement shall remain binding,

(a) notwithstanding a change -

(i) of employer;

(ii) of ownership of the undertaking or industry concerned; or

(iii) in the membership or structure of the trade union or employers' organisation;

(b) until-

(i) it is replaced by a new collective agreement at the expiration of 3 years after coming into force; or

(ii) it is terminated by the mutual agreement of the parties thereto.

(4) Negotiations shall recommence, at the request of either party to the Gazetted collective agreement.

(5) An agreement arrived at by a Trade Group Council shall substitute an existing agreement whose terms are less favourable than the relative provision of a new agreement.

(6) Upon application by an affected party, the Industrial Court shall determine whether an employer or worker or a class of employers or workers is covered by a registered collective agreement.

(7) Where a Gazetted collective agreement contains clauses directly applicable to the terms and conditions of employment of a worker or class of workers, such clauses shall be deemed to be incorporated as terms and conditions of the contract of employment of a worker employed by a party to the agreement irrespective of whether the worker is a member of the trade union party to the agreement.

-
- (a) consider any objections to the application;
or
 - (b) on being satisfied that -
 - (i) an objection has not been raised and that the trade union or employers' organisation has complied with the provisions of registration under this Act; and
 - (ii) the trade union or employers' organisation has paid the prescribed registration fee,

register the trade union or employers' organisation and issue a certificate of registration to the trade union or organisation in such form as prescribed in the First Schedule.

(5) A certificate of registration issued under subsection (4) shall, unless proved to have been withdrawn or cancelled shall be conclusive evidence that the provisions of this Act relating to registration have been complied with and that the union or employers' organisation is the trade union or an employers' organisation of the type stated in the certificate.

43. (1) The Registrar shall not register a trade union or employers organisation unless he is satisfied that-

Refusal to register a trade union or employers' organisation.

- (a) the applicant has been duly authorised to apply for registration under subsection (1) of section 42;
- (b) the purposes of the trade union or employers' organisation are not unlawful; and
- (c) section 47 has been complied with;

- (d) no other trade union or employers' organisation already registered is sufficiently representative of the whole or of a substantial proportion of the interests in respect of which the applicant seeks registration.

Misleading
name.

44. (1) The Registrar shall not, except with the consent of the Joint Consultative Committee, register a trade union or employers' organisation which contains a word which, in the opinion of the Registrar, are deceptive, ambiguous or objectionable in that they contain a reference direct or otherwise to a personage, practice or institution, or is otherwise unsuitable as a name for a trade union or employers' organisation.

(2) Where a trade union or employers' organisation is already registered and its name contains words which are prohibited under sub-section (1) the Registrar shall call upon such union or organisation to change its name within a period of 2 months and in the event of such union or organisation failing to change its name to the satisfaction of the Registrar it shall be struck off the Register.

(3) A union or organisation shall not be registered under a name identical with that of an existing union or organisation or so nearly resembling such name as to be likely to deceive its members or members of the public.

(4) Where the Joint Consultative Committee decides that a certain name may be used by a specified trade union or employers' organisation such name may be registered in respect of that union or organisation or may be retained, subject to subsections (1) and (2), by that union or organisation, as the case may be.

(5) Where the Registrar refuses to register a union or an organisation, he shall forthwith inform the applicant in writing of the grounds of such refusal.

45. A person aggrieved by the refusal of the Registrar to register an a union or organisation may, within 30 days from the day of notification of the refusal, appeal to the Industrial Court whose decision shall be final and the Industrial Court may make any direction as to the costs of the appeal as it thinks it just.

Appeal
against
refusal to
register.

46. (1) The constitution of a registered trade union or employers Organisation shall include -

Constitution
of trade
union or
employers'
organisation.

- (a) the name of the trade union or employers' organisation and the address of its registered office in Sierra Leone;
- (b) the principal objects of the trade union or employers' organisation and the class or classes of workers or employers which the organisation shall represents;
- (c) the purposes for which the funds thereof shall be applicable, and the conditions under which a member may become entitled to any benefit assured thereby;
- (d) the subscription and dues to be paid by a member and the fines and forfeitures to be imposed on a member;
- (e) the qualification for membership;
- (f) the organisational structure, the mode of appointment and removal of the officers responsible for the administration of the union or organisation and the powers and duties of such officers;
- (g) the payment of subscriptions and fees by the members and the method of collection and the grounds for qualifying a member from voting on any matter concerning the organisation;

-
- (h) provisions for a general meeting open to all members or alternatively to be attended by delegates elected by members on a regional or local level, at least once every 2 years;
 - (i) a provision that a member or delegate, as the case may be, may propose a resolution or question an officer at a general meeting;
 - (j) the specific grounds on which an officer or member may be suspended or expelled from office or from membership;
 - (k) the procedure for suspension or expulsion from office or from membership, including provision that the affected officer or member shall have a right to a fair hearing and that he shall have the right to appeal;
 - (l) a provision for keeping of full and accurate records by the treasurer or other appropriate officer, for the annual audit of the records of the trade union or employers' organisation by a professionally qualified auditor appointed by the organisation, who shall not be a member of that organisation, and for the availability to all members of full audited annual statements of account;
 - (m) a provision for the banking and investment of the trade union or employers' organisation funds;
 - (n) a provision for the paying out of the trade union or employers' organisation funds, including the authority to sign cheques;
 - (o) the conditions under which a member may become entitled to any financial benefit provided by the trade union or employers' organisation;

- (p) the procedure for altering or amending the constitution of the trade union or employers' organisation;
- (q) the inspection of the register of members and other books of the trade union or employers' organisation by a member;
- (r) the manner of amalgamating with other trade unions or employers' organisations;
- (s) the manner of dissolving the trade union or employers' organisation;
- (t) the inspection of the books and names of members of the trade union or employers' organisation by a person having an interest in the funds of the trade union or employers' organisation.

(2) A registered trade union or employers' organisation shall, upon request, circulate a copy of its current constitution to every person who becomes a member of that trade union or employers' organisation.

(3) A copy of the constitution of a registered trade union or employers' organisation shall be delivered by the trade union or employers' organisation to person on demand and on payment of a prescribed fee.

47. (1) An alteration of the constitution of a registered trade union or employers' organisation shall be registered with the Registrar on the payment of such fee as prescribed in the First Schedule and shall take effect from the date of registration unless some later date is specified in the constitution.

Alteration of
constitution.

(2) An application for registration of an alteration of the constitution of a registered trade union or employers' organisation shall be made in such manner as may be prescribed.

(3) The constitution of a registered trade union or employers' organisation shall not be altered so that they cease to contain provisions under subsection (1) of section 47.

Circulating
false copy of
constitution

48. (1) A person who, with intent to mislead or defraud, gives to a member of a registered trade union or employers' organisation or to any person intending or applying to become a member of such trade union or employers' organisation, -

- (a) a copy of a constitution or of an alteration or amendment of the constitution other than that which exists for the time being, on the pretence that it is the existing constitution of such trade union or employers' organisation, or that there is no other constitution of such trade union or employers' organisation, or
- (b) a copy of a constitution on the pretence that such constitution is the constitution of trade union or employers' organisation registered under this Act which is not so registered,

commits an offence is liable, on conviction, to a fine not exceeding 40 months national minimum wage or to imprisonment for 12 months, or to both such fine and imprisonment.

Cancellation
of certificate
of
registration.

49. (1) The Registrar may cancel the certificate of registration of a trade union or employers' organisation, after due consultation with the Joint Consultative Committee and notify the Union or organisation in writing in the following cases-

- (a) at the request of the trade union or employers' organisation made in such form as the Registrar may from time to time direct; or
- (b) on proof to his satisfaction that the registration of the trade union or employers' organisation does not meet the requirements of section 43; or

-
- (c) where the Registrar is satisfied that a registered trade union or employers' organisation has ceased to exist.

(2) Where the Registrar has cancelled the registration of a trade union or employers' organisation under subsection (1), a person aggrieved by such cancellation may, within 30 days from the date of notification thereof, appeal against the decision of the Registrar to the Industrial Court whose decision shall be final and the Industrial Court may make any directions as to the costs of the appeal as it thinks just.

(3) Where the Registrar is satisfied that a certificate of registration of a trade union or employers' organisation has been obtained by fraud or mistake, or that a registered employers' organisation has wilfully and after notice from the Registrar violated any of the provisions of this Act, he shall, subject to this section, make an application for an order that the registration of the employers' organisation be cancelled to the Industrial Court whose decision shall be final and it may make any order as to the costs of the application as it thinks proper.

(4) Before making application to the Industrial Court under subsection (3), the Registrar shall give at least 2 months' previous notice in writing to the union or organisation of his intention so to apply and shall state briefly the grounds of the proposed application.

(5) A trade union or employers' organisation whose certificate of registration has been cancelled shall from the time of such cancellation absolutely cease to enjoy the privileges of a registered employers' organisation, without prejudice to any liability incurred by such employers' organisation, which may be enforced against the same as if such cancellation had not taken place.

Amalgamation
of trade
union and
Employers
organisation.

50. Any 2 or more registered trade unions or employers organisation may amalgamate, subject to -

- (a) approval, in writing, by the Registrar;
- (b) the constitution of the trade unions or Employers organisation; and
- (c) the payment of such fees as prescribed in the First Schedule.

Registration
of change of
name.

51. (1) A registered trade union or employers' organisation may change its name, subject to -

- (a) the approval in writing of the Registrar;
- (b) the consent of not less than two thirds of the members;
- (c) the payment of such fees as prescribed in the First Schedule.

(2) A change of name under subsection (1), shall affect a right or obligation of the trade union or employers' organisation or of a member thereof, and any pending legal proceedings may be continued by or against the trustees of the trade union or employers' organisation or any other officer who may sue or be sued on behalf of such trade union or employers' organisation notwithstanding its new name.

Notice of
change of
name or
amalgamation.

52. (1) A notice in writing of a change name or amalgamation by 5 members shall -

- (a) be signed and countersigned by the Secretary of the trade union or employers organisation;
- (b) accompanied by a statutory declaration by such Secretary that the provisions of this Act in respect of change of name or amalgamation, as the case may be, have been complied with.

(c) accompanied by evidence of the payment of such fees as prescribed in the First Schedule; and

(d) submitted to the Registrar for registration.

(2) A change of name or amalgamation under subsection (1) shall be of no effect until it is registered.

53. A person under the age of 18 years, but above 15 years may, unless expressly prohibited by the rules of a trade union or employers' organisation, be a member of a trade union or employers' organisation but shall not be a member of the committee of management, treasurer or other officer of the trade union or employers' organisation. Membership of minors.

54. (1) A trade union or any member thereof shall not perform trade union activities in furtherance of the purposes for which it has been formed unless such Union has first been registered. Trade unions not to carry on business unless registered.

(2) A trade union or an officer or member of a trade union who contravenes subsection (1), commits an offence and is liable to a fine of not less than 24 months national minimum wage.

55. (1) A person shall not be qualified for election or appointment as an officer of a trade union or employers' organisation if he- Disqualification from election or appointment as Officer.

- (a) has been convicted of an offence involving dishonesty within a period of 5 years preceding the election or appointment;
- (b) is an un-discharged bankrupt;
- (c) is of unsound mind;
- (d) has been suspended under its constitution or under this Act from holding office in the organisation and his suspension has not been revoked or the period for which he was suspended has not expired;

- (e) has been expelled from the trade union or employers' organisation or has resigned from the union or organisation to avoid expulsion and a period of 3 years has not expired since the expulsion or resignation.

(2) An officer of a trade union or employers' organisation shall cease to hold office if any circumstances arise which, were he not an officer, would disqualify him under subsection (1) from election as an officer.

(3) The Registrar may call for such documentation and information as the Registrar may think necessary from the executive committee or an officer of a trade union or employers' organisation in order to ensure that the provisions of this section are being complied with.

(4) A person who, being disqualified under this section to hold office in a trade union or employers' organisation, acts or purports to act as an officer of that trade union or employers' organisation commits an offence and is liable to a fine not less than 24 months national minimum wage and in addition may be prohibited from holding office in any organisation for a period not exceeding 24 months.

Injunction
against
officer of
trade union or
employers'
organisation.

56. (1) A member of a trade union or employers' organisation or the Registrar may apply to the Industrial Court for an injunction prohibiting an officer of the trade union or employers' organisation from holding office or dealing with funds of the trade union or employers' organisation.

(2) On an application made under subsection (1) the Industrial Court may, if it is satisfied that such officer is disqualified under section 55 from holding office in that trade union or employers' organisation or that there is a reasonable case against such officer for the fraudulent misuse of the funds of the trade union or employers' organisation, make the necessary order granting such application.

57. (1) A treasurer or other officer of a registered trade union shall render a just and true account of all moneys received and paid by him since he last rendered the like account and of the balance then remaining in his hands, and of all bonds and securities of such trade union, to the members at a meeting of the trade union. Annual returns

(2) An account rendered under subsection (1), shall be audited by fit and proper person or persons appointed by the trade union and approved by the Registrar.

(3) The treasurer or other officer, as the case may be, upon the accounts being audited, if required, handover to the trade union -

- (a) the balance which on such audit appeared to be due from him;
- (b) all the securities and effects, books, papers, and property of the trade union in his hands or custody.

(4) A registered trade union or employers' organisation shall, not later than 3 months after the expiry of a trade union or employers' organisation financial year, furnish the Registrar with -

- (a) the information specified subsection (1), prepared and made out up to such date, in such form, and shall comprise such particulars, including particulars of membership and changes therein, as the Registrar may from time to time require, including -
 - (i) the assets and liabilities at the date on which the account;
 - (ii) the receipts and expenditure during the year proceeding the date which the account is made;

(b) a copy of -

- (i) all alterations of the constitution and new constitution;
- (ii) changes of officers made by the trade union or employers' organisation during the year preceding the date up to which the statement is made;
- (iii) a copy of the constitution of the trade union or employers' organisation as they exist at that date.
- (iv) a note of the number of members of the trade union or employers' organisation at the commencement of that year; and
- (v) a note of any alteration in the constitution of the trade union or employers' organisation coming into operation in the calendar year preceding the date the information is given.

(5) A member of, and depositor in, a trade union or employers' organisation shall be entitled to receive, on application to the treasurer or secretary of that trade union or employers' organisation, a copy of a statement under subsection (3), free of cost.

(6) An officer of a registered trade union or employers' organisation of the trade union or employers' organisation that fails to comply with or acts in contravention of this section commits an offence and is liable to a fine not exceeding 25 months of the national minimum wage.

(7) A person who wilfully makes or orders to be made a false entry in or an omission from a statement under subsection (4), or in or from the return of such copies of constitution or alterations of constitution, commits an offence and is liable to a fine not less than 24 months of the national minimum wage.

58. (1) A registered trade union or employers' organisation shall transmit to the Registrar its audited account within 6 months of its submission to the members of the trade union or organisation. Inspection and audit of accounts.

(2) An officer of a registered trade union or employers' organisation which fails to comply with this section shall commits an offence and is liable to a fine not less than 30 months of the national minimum wage.

59. (1) The Registrar may at any time, in addition to the rendering of accounts under subsection (1) of section 58, call upon the treasurer, committee of management or other officer of a registered trade union or employers' organisation to render detailed accounts of the funds of the trade union or employers' organisation in respect of any particular period and shall show in detail such information as the Registrar may require. Registrar may call for accounts.

(2) A trade union or employers' organisation who fails or neglects, without lawful excuse, to render such account or assist in the rendering of such account under subsection (1), commits an offence and is liable to a fine not less than 25 months of the national minimum wage.

(3) Where a trade union or employers' organisation fails to comply with any of the requirements under subsection (1), the Registrar may apply to the Industrial Court which, if satisfied that the failure has occurred, shall order the person concerned to comply with the requirement and failure to comply with such order shall be treated as contempt of Court.

(4) The Registrar may, if it appears expedient to do so for the benefit of the members of a trade union or employers' organisation, where, in consequence of an examination or audit of an account under this section, it appears that -

- (a) a criminal offence has been committed; or
- (b) a violation of this Act has occurred; and

- (c) monies due to the trade union or employers' organisation are outstanding and the trade union or employers' organisation having failed to take adequate steps to secure payment of such monies, institute criminal proceedings or civil proceedings for the recovery of such monies.

(5) Proceedings under subsection (4) shall be instituted on behalf of and in the name of the trade union or employers' organisation and at the expense of the trade union or employers' organisation.

(6) A copy of the accounts submitted to the Registrar under this section certified by or on behalf of the Registrar as acceptable shall, if been accepted by the Registrar, on reasonable request, be made available at the registered office of the trade union or employer's organisation for inspection by any member of the trade union or employers' organisation.

Trade union
or employers'
organisation
to submit
delegate
conference
Calendar.

60. (1) A trade unions or employers' organisations shall furnish the Registrar the calendar of their delegate conference, 6 months before the expiration of the term of office of the current executive.

(2) A trade union or employers' organisation, who fails to comply, after 3 months' notice to do so by the Registrar, is liable to a fine of not less than 12 months of the national minimum wage.

(3) An executive who continues in office after expiration of his term of office, except on force majeure, commits an offence and is liable to a fine not less than 12 months of the national minimum wage.

61. A registered trade union or employers' organisation or officer or other person that fails to give a notice or send a document which is required under this Act to be given or sent, every member of the Committee of management of the Union, unless proved to have been ignorant of, or have attempted to prevent the omission to give or send the same, shall be liable to a fine not less than 20 months of the national minimum wage recoverable at the suit of the Registrar, or of an aggrieved person, and to an additional fine of 6 months of the national minimum wage for each week during which the omission continues.

Failure to give notice

62. A worker who has signed a union check-off form shall give notice to a trade union secretary of the withdrawal of his membership.

Notice of withdrawal of membership

63. The Minister may, in consultation with the Joint Consultative Committee, make regulations to facilitate the operations of a trade union and employers' organisation and shall publish such regulations in the Gazette.

Regulations.

PART VII-INDUSTRIAL ACTIONS AND TRADE DISPUTE SETTLEMENT PROCEDURES

64. (1) An industrial strike action shall require a 21 days written notice of intention to strike to be given to the relevant employer and the Ministry.

Notice of intention to strike.

(2) An aggrieved, unionised worker who has given notice of intention to strike under subsection (1), shall not commence unless after the expiration of 21 days from the date of the notice and not at any time before the expiration of that period.

(3) A party to an industrial dispute shall not resort to a strike during the period when negotiation or mediation processes are in progress.

(4) An aggrieved unionised worker who intends to go on strike shall channel his intention through a Union Secretary General of a registered trade union with a bargaining certificate.

(5) A notice of an intention to strike shall be suspended, upon the commencement of a dialogue after the issuance of a 21 days' notice of intention to strike under subsection (1).

(6) An aggrieved and unionised workers who contravenes this section shall be responsible for damage, loss or injury suffered by any other party to the dispute.

Lock-out

65. (1) An employer shall, in the event of a lockout, notify the Ministry within 24 hours.

(2) A worker shall, where a lockout occurs, inform his union representatives or the Ministry.

Action in
breach of
procedure.

66. An industrial action which -

- (a) is in breach of this Act or a collectively agreed procedure for the settlement of industrial disputes applicable to the trade dispute in question; and
- (b) provides, expressly or impliedly, that the collectively agreed procedure shall be exhausted before industrial action is taken,

shall be deemed to be an unlawful industrial action and may be prohibited by order of the Industrial Court.

Jurisdiction to
hear, over
claims.

67. (1) The Commissioner shall settle by conciliation and decide complaints by -

- (a) a person alleging an infringement of this Act; and
- (b) either party to a contract of employment alleging that the other party is in breach of obligations owed under that contract.

(2) The Commissioner shall, have the power to in the case of -

-
- (a) an infringement of this Act, -
- (i) order a party to comply with this Act and to put the disadvantaged party back into the position it would have been prior to the breach; and
 - (ii) award further compensation on a basis it considers just and equitable.
- (b) a breach of obligations owed under a contract of employment, order a party to -
- (i) respect the obligations owed in accordance with the terms of the contract and put the disadvantaged party back into the position it would have been prior to the breach; and
 - (ii) award further compensation on a basis it considers just and equitable.

(3) The Commissioner shall not make an order under subsection (3) that will result in double recovery for the aggrieved party where he has found both an infringement of the Act and a breach of obligations owed under a contract of employment.

(4) The jurisdiction of the Commissioner under subsection (2) shall not extend to a claim in tort arising out of the employment relationship.

(5) Where, within 30 days of the submission of a complaint under this Act to the Commissioner, he has not issued a decision on the complaint or dismissed it, the complainant may pursue the claim before the Industrial Court.

(6) The Commissioner shall state the reasons for a decision taken on a complaint.

68. (1) Without prejudice to the considerations of the Ministry, the parties to a trade dispute may decide to adopt any other form of dispute resolution. Alternative
dispute
resolution.

(2) In a trade dispute or industrial matter commencing by writ of summons, the parties shall before the commencement of trials be subject to alternative dispute resolution.

(3) A Judge of the Industrial Court may recommend mediation to the parties in trade dispute.

PART VIII - THE INDUSTRIAL COURT

The
Industrial
Court.

69. (1) There shall be an Industrial Court established by the Chief Justice as a division of the High Court, in accordance with section 16 of the Courts Act, 1965, which shall be a court of record for the settlement of trade disputes.

(2) The Industrial Court shall expeditiously hear, inquire into and investigate disputes and matters affecting the merits of such dispute before it and shall, in particular, hear, receive and consider submissions, arguments and evidence made, presented or tendered by or on behalf of an employer or worker.

(3) The Industrial Court shall consist of -

(a) a President;

(b) a Vice-President; and

(c) 3 assessors.

(4) The President and the Vice-President shall be appointed by the Chief Justice, in consultation with the Judicial and Legal Commission, from among Lawyers of at least 15 years continuous professional experience.

(5) A representative from each of the tripartite constituents with at least 10 years technical working experience in labour and industrial matters shall be nominated to serve as assessors in the Industrial Court.

(6) The members of the Industrial Court, other than the President and Vice-President, shall hold office for a period of 5 years on such terms and conditions as the Chief Justice may, in consultation with the Judicial Service, may determine.

(7) The Industrial Court may, where expert knowledge is required for a proper determination of the proceedings, appoint persons with expert knowledge to assist it in an advisory capacity in proceedings but the Industrial Court may not be bound by any advice tendered by such persons.

70. (1) There shall be a Registrar and Deputy Registrar who shall be public officers appointed by the Judicial and Legal Service Commission. Registrar and other officers of Industrial Court.

(2) The Public Service Commission may appoint such other officers of the Industrial Court as may be necessary.

71. (1) The Industrial Court shall have jurisdiction to - Jurisdiction of Industrial Court.

- (a) inquire into and make awards and decisions in collective disputes and any other matters under this Act;
- (b) interpret the terms of awards or collective bargaining agreements or terms and conditions of service;
- (c) generally, inquire into and adjudicate upon any matter affecting the collective rights, obligations and privileges of workers, employers and representative organisations thereof or any matter relating to industrial relations;
- (d) commit for contempt a person who disobeys or unlawfully refuses to carry out or to be bound by an order made against him by the Industrial Court under this Act;

-
- (e) perform such acts and carry out such duties as may be prescribed under this Act, the Employment Act or any other enactment.

(2) The Industrial Court shall have the jurisdiction to hear and determine a dispute between an employer and a worker notwithstanding that such dispute is not connected with a collective agreement or other trade union matter.

(3) In reaching a decision or in making an award relating to wages and conditions of employment, the Industrial Court shall inform itself regarding the Government's declared policy on prices and incomes, but may not be bound by such policies.

(4) An award, decision or judgement of the Industrial Court on a matter referred to it for its decision or a matter falling within its exclusive jurisdiction shall be final and binding upon the parties to the matter and any parties affected thereby.

(5) An award shall come into force upon such date, as the Industrial Court may decide.

(6) In addition to the above, the jurisdiction of the Industrial Court shall cover all categories of workers in the public and private sector.

Appeals

72. (1) An employer or worker who is dissatisfied with the decision of the Commissioner on a complaint made under this Act may appeal to the Industrial Court.

(2) The Industrial Court shall have power to hear an appeal under this Act, and to confirm, modify or overturn a decision from which appeal is taken.

(3) The Industrial Court shall, in disposing of appeals arising under this Act, give its judgment in writing, and shall give reasons for a decision reached.

(4) An appeal against an award or order of the Industrial Court shall lie to the Appeal Court upon a point of law or if the Industrial Court has exceeded its jurisdiction.

(5) An appeal shall not lie after the expiration of 14 working days from the date of the order of the Court, provided that the Appeal Court may, if it deems fit, extend the time for appealing under this section notwithstanding that the time for appealing has elapsed.

73. (1) A person bound by an award who willfully causes a breach of or fails to observe a condition of the award commits an offence and is liable, in the case of - Penalty for breach of conditions of award.

- (a) a trade union or employers' organisation, to a fine not less than 12 months of the national minimum wage;
- (b) an employer, to a fine not exceeding 12 months of the national minimum wage;
- (c) a worker, to a fine not exceeding 12 months of the national minimum wage.

(2) Where in a proceeding against an employer, it appears to the Industrial Court that a worker employed by that employer has not been paid the amount to which he is entitled under the award, the Industrial Court may, in addition to imposing any other penalty, order that the employer shall pay to the worker such sum as is found by the Industrial Court to represent the difference between the amount which ought to have been paid to the worker if the award had been complied with and the amount actually paid to the worker.

74. (1) At a hearing before the Industrial Court, a party may appear in person or be represented by - Representation of parties.

- (a) an officer of a trade union or of an employers' organisation;
- (b) an officer of the Congress or of the Federation; or

(c) a legal practitioner.

(2) Where the Government is a party to any proceedings before the Industrial Court, the Government may be represented by the Attorney General or by any other person authorised by the Attorney General for that purpose.

PART IX - MISCELLANEOUS PROVISIONS

Regulations.

75. (1) The Minister may, by statutory instrument, make regulations for giving effect to this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations with respect to-

- (a) registration of trade unions and employers' organisation under this Act;
- (b) the forms to be used for the registration of trade unions and employers' organisation under this Act;
- (c) the inspection of registers and documents kept by the Registrar and the making of copies of any entries therein;
- (d) the fees to be charged for registration, inspection and any other service or matter prescribed or permitted by this Act.

(2) Unless and until amended, varied or revoked by the Minister the rules set out in the Second Schedule hereto shall have effect as if they had been duly made under this section.

Repeal
and savings.

76. (1) The following enactments are hereby repealed-

- (a) The Regulation of Wages and Industrial Relations Act No. 18 of 1971;

(b) The Trade Disputes (Declaration of Law) Act (Cap, 222);

(c) The Trade Union Act (Cap 221)

(2) Notwithstanding subsection (1), any rules, regulations, orders, notices, prescription and other instruments or directives issued under a repealed Act and in existence immediately before the commencement of this Act, shall continue in operation until their expiration or until their express repeal or revocation or cancellation.

(3) An investigation, prosecution and other legal proceeding instituted or commenced under a repealed Act and which have not been concluded before the commencement of this Act, shall be continued and concluded in all respects as if that Act had not been repealed.

SCHEDULES

FIRST SCHEDULE

(42, 47, 50, 51, 52)

PAYABLE FEES FOR TRADE UNIONS AND EMPLOYERS'
ORGANISATIONS

The following fees shall be payable -

- (a) For the certificate of registration of a trade union or employers' organisation four months national minimum wage
- (b) For the certificate of registration of an alternation of constitution one months national minimum wage
- (c) For the certificate of registration of a change of name one months national minimum wage
- (d) For registration of notice of a dissolution one months national minimum wage
- (e) For registration of amalgamation four months national minimum wage
- (f) For every document required to be authenticated by the Registrar, not chargeable with any other fee one months national minimum wage
- (g) For every inspection on the same day of documents (whether one or more), in the custody of the Registrar, relating to one and the same trade union or employers' organisation one months national minimum wage

-
- (i) For every copy or extract of any document in the custody of the Registrar, not exceeding 216 words one months national minimum wage
- (j) If exceeding 216 words, per folio of seventy-two words or part thereof two months national minimum wage

The above fees are in addition to the fee for authentication.

No fee is payable for the registration or recording of-

- (a) The cancellation of certificate of registration
- (b) Any notice of change of registered Office
- (c) Any document or copy of document supplied to the Government
- (d) Any document in respect of which a fee is already chargeable under or by virtue of this Act or any other Act.

SECOND SCHEDULE (74)

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION RULES

Rule No.....

FORM A

Application for Registration of trade union or employers' organisation

This application is made by the prescribed number of persons whose names are subscribed at the foot hereof. ~

The name under which it is proposed that the union or organization on behalf of which this application is made shall be registered is as set forth in rule No:

To the best of our belief there is no registered union or organisation with the name of which is identical with the proposed name or so nearly resembles the same as to cause confusion.

The office of the to which all communications and notices may be addressed, is as as set forth rule No:

The Was formed on the day of

The whole of the objects for which the is formed and the purposes for which the funds thereof are applicable are set forth in rule No:

The condition under which members may become entitled to benefits assured are set forth in rule No:

The subscription and dues to be paid by members are set forth in rule No:

The fines and forfeitures to be imposed on members are set forth in rule No:

The manner of making, altering, amending, and rescinding rules is set forth in rule No:

The provision for the appointment and removal of a general committee of management, of treasurer and other offices is set forth in rule No:

The duties of the members of the managing committee and officers are set forth in rule No:

The provision for the investment of funds and for the periodical audit of accounts is set forth in rule No:

The provision for the inspection of the books and names of the members by every person having an interest in the funds is set out in rule No:

The provision for the manner of dissolving the union or organisation is set forth in rule No:

Accompanying this application are sent-

Two printed copies, each marked A, of the rules

A list, marked B, of the titles and names of the officers.

Signed: 1

.....

2.....

3.....

4.....

(In the case of trade union, 50 Members shall sign the application form bearing their bio data)

Dated this day of
..... 20.....

TO THE REGISTRAR OF TRADE UNIONS AND EMPLOYERS' ORGANISATION,
FREE TOWN

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION
RULES

Rule No.

FORM B. (SECTION 41, SUBSECTION 4)

CERTIFICATE OF REGISTRATION OF TRADE UNION OR EMPLOYERS' ORGANISATION

It is hereby certified that the has been registered under the Industrial Relation and trade unions Act this day of 20.....

.....
Seal and/ or Signature of Registrar

.....
Name of Union or Organisation

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION RULES

Rule No.

FORM C.

APPLICATION FOR REGISTRATION OF PARTIAL ALTERATION OF RULES
trade union or employers' organisation.

Register No.

This application for the registration of a partial alternation of the rules of the union or organisation is made by the prescribed number of members of the union or organisation whose names are subscribed at the foot hereof.

With this application are sent-

A printed (or typed) copy of the registered rules marked to show where and in what way they are altered;

Two printed (or typed) copies of the alteration, each marked O, signed by each of the applicants;

A statutory declaration of an officer of this trade union, that in making the alteration of rules now submitted for registration of the rules of the Union or organisation were duly complied with.

We have been duly by the Union or organisation to make this application on its behalf, such authorization consisting of a passed as a general meeting on the day of 20.....

Signed:

1.	}	
2.	}	
3.	}	Members
4.	}	
5.	}	

(In the case of trade union, 50 Members shall sign the application form bearing their bio data)

Dated this day of 10.....

TO THE REGISTRAR of TRADE UNION AND EMPLOYERS' ORGANISATION,
FREETOWN

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION
RULES

Rule No.

FORM D

DECLARATION ACCOMPANYING ALTERATION OF RULES

trade union or employers' organisation.

Register No.

Iofan officer of the above-named union or organisation, do solemnly and sincerely declare that in making the alteration of the rules of the trade union, application for the registration of which is appended to this declaration, the rules of the said union or organisation have been duly complied with.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of the statutory Declarations Act, 1835

Taken and received before}

Me, etc. }

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION RULES

Rules No.....

FORM E.

CERTIFICATE OF REGISTRATION OF PARTIAL ALTERATION OF RULE

trade union or employers' organisation.

Register No.

It is hereby certified that the foregoing partial alteration has been registered under the Trade

Unions ordinance thisday of20

.....

.....
Seal and/ or Signature of Registrar.

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION
RULES

Rule No.....

FORM F.

APPLICATION FOR REGISTRATION OF COMPLETE ALTERATION OF RULES
trade union or employers' organisation.

Register No.

This application for the registration of a complete alteration of the registered rules of the Union or Organisation is made by the prescribed number of members of the union or organisation whose names are subscribed at the foot hereof.

The complete alteration submitted for registration is the substitution of the set of rules, two printed copies of which (each copy marked P, and signed by the applicants) accompany this application, for the set of rules already registered.

The office to which all communications and notices may be addressed, is atas set forth in rule No.

The was registered on the day of 20.....

The whole of the objects for which the is established, and the purposes for which the funds thereof are applicable, are set forth in rule no.....

The conditions under which members may become entitled to benefits assured are set forth in rule No.

The subscriptions and dues to be paid by members are set forth in rule No.....

The fines and forfeitures to imposed on members are set forth in rule No.....

The manner of making altering amending and reacting rules is set forth in rule No.....

The provision for the appointment and removal of a rental committee of management of

treasure and other officers, is set forth rule No.....

The provision for the appointment funds and for the persons audit of accounts is set forth in rule No.....

The provision for the inspection of the books and names of the members by every person having an interest in the funds is not forth in rule No.....

The provision for the manner of dissolving the trade union is set forth in rule No.....

The application is accompanied by a declaration ofan officer of the said trade union, to the effect that in making the alteration of rules now submitted for registration the rules of the trade union were duly complied with.

We have been duly authorized by theto make this application on its behalf such authorization consisting of a resolution passed at a general meeting held on theday of20.....

Signed:

- | | |
|----|-----------|
| 1. | } |
| 2. | } |
| 3. | } Members |
| 4. | } |
| 5. | } |

(In the case of trade union, 50 Members shall sign the application form bearing their bio data)

Dated this day of 19.....

TO THE REGISTRAR of TRADE UNION AND EMPLOYERS' ORGANISATION,
FREETOWN

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION
RULES

Rule No.....

FORM G

CERTIFICATE OF REGISTRATION OF COMPLETE ALTERATION OF RULES
trade union or employers' organisation.

Register No.

It is hereby certified that the set of rules, copy whereof is appended hereto, has been registered under the Industrial Relation and trade union Act in substations of the set of rule already registered for the Union or Organisation this...day of20.....

.....
Seal end/ or signature of Registrar.

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION
RULES

Rule No.....

FORM H.

NOTICE BEFORE CANCELLATION OF CERTIFICATE OF REGISTRATION
trade union or employers' organisation.

Register No.

Notice is hereby given to the above-mentioned union or organisation that it is the intention of the Registrar to proceed on theday of20..... to cancel the registration of the union or organisation, unless cause be shown to the contrary in the meantime.

The ground of such proposal cancellation is that the certificate of registration has been obtained by fraud (or mistake), or that the registration of that union or organisation has become void under the provisions of the Industrial Relation and Trade Union Act in respect of cancellation of certificate of registration, or that the trade union willfully and after notice from me violated the provisions of the Industrial Relation and Trade Union Act, or has ceased to exist. (the facts should be briefly specified where practicable.)

Dated thisday of20.....

.....
Seal end/ or signature of Registrar.

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION
RULES

Rule No...

FORM I.

CANCELLATION OF CERTIFICATE OF REGISTRATION

trade union or employers' organisation.

Register No.

The certificate of registration of the above-mentioned union or organisation is hereby cancelled. (The Registrar may, if he deems fit, add a statement as in Form U of the ground of the cancellation.)

Dated thisday of20.....

.....
Seal and/ or signature of Registrar.

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION
RULES

Rule No....

FORM J.

NOTICE OF CHANGE OF REGISTRATION OFFICE

trade union or employers' organisation

Register No.

TO THE REGISTRAR OF TRADE UNIONS AND EMPLOYERS' ORGANISATION.

Notice is hereby given that the registered office of the above-mentioned trade union has been

removed from .in.....to.....in.....

Dated this day of
.....20.....

} Committee

} of

} Management

Received thisday ofnotice of removal of the
registered office of the

.....Register No.....to.....in
.....

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION
RULES

Rule No...

FORM K.

APPLICATION FOR APPROVAL, AND NOTICE OF CHANGE OF NAME

Name already registered.....

Registered No.....

TO THE REGISTRAR OF TRADE UNIONS AND EMPLOYERS' ORGANISATION,
FREETOWN

Application for approval of change of name of the above-mentioned union or organisation is hereby made by thepersons whose names are subscribed at the foot hereof.

The following is a copy of a resolution passed by the consent of two thirds of the total number of members of the union or organisation-

{The resolution to be copied at length}

And notice of the said change is hereby given for registration in your office.

.....
Secretary

Dated thisday of20.....

Signed:

1.	}	
2.	}	
3.	}	Members
4.	}	
5.	}	

(In the case of trade union, 50 Members shall sign the application form bearing their bio data)

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION
RULES

Rule No....

FORM L.

DECLARATION TO ACCOMPANY APPLICATION FOR APPROVAL OF CHANGE
OF NAME

Name of the union or organisation

Registered No.

I of the secretary of
the above-mentioned union or organisation, do solemnly and sincerely declare
that in making the change of name, notice of which is appended to this declaration,
the provisions of the Industrial Relation and trade union Act in respect of change
of name, have been complied with.

And I make this solemn declaration conscientiously the same to be true, and by
virtue of the provisions of the Statutory Declarations Act, 1835.

Taken and received before }

Me, etc. }

.....

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION
RULES

Rule No...

FORM M.

NOTICE OF DISSOLUTION OF TRADE UNION OR EMPLOYERS'
ORGANISATION

trade union or employers' organisation

Register No.

TO THE REGISTRAR OF TRADE UNIONS, FREETOWN

Notice is hereby given that the above-mentioned union or organisation was
dissolved in pursuance of the rules thereof on theday
of.....

Signed

- | | |
|----|-----------|
| 1. | Secretary |
| 2. | } |
| 3. | } Members |
| 4. | } |
| 5. | } |

Name and address to which}

Registered copy is to be }

returned }

date20.....

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION RULES

Rule No..
FORM N.

NOTICE OF AMALGAMATION OF TRADE UNION OR EMPLOYERS' ORGANISATION

Union or Organisation.
Register No.....
Union or Organisation.
Register No.....
{and so on if more than two}

TO THE REGISTRAR OF TRADE UNIONS AND EMPLOYERS' ORGANISATION,
FREETOWN

Notice is hereby given, that by the consent of two thirds of the whole number of members of each or every of the above -mentioned unions or organisation, they have resolved to become amalgamated as one trade union or employers' organisation.

And that the following are the terms of the said amalgamation (state the terms):-

And that it is intended that the union or organisation shall henceforth be called the.....

Accompanying this notice is a copy of the rules intended to be henceforth adopted by the amalgamated union or organisation (which are rules of thetrade union or employers' organisation).

(To be signed by five members and the secretary of each trade union)

Name and address to which}
Registered copy is to be }
Sent. }

Dated this day of
.....20.....

THE TRADE UNION AND EMPLOYERS' ORGANISATION REGISTRATION
RULES

Rule No...

FORM O.

DECLARATION TO ACCOMPANY NOTICE OF AMALGAMATION
trade union or employers' organisation

Register No.

I.....of.....the secretary of
the above-mentioned union or organisation, do solemnly and sincerely declare
that in the amalgamation of the said union or organisation with the
....., notice of which is appended to this
declaration, the provisions of the Industrial Relations and trade union Act in respect
of amalgamations have been duly complied with.

And I make tis solemn declaration, conscientiously believing the same to be true,
and by virus of the provisions of the Statutory Declarations act, 1835.

Taken and received before}

Me, etc. }

MADE this 19th day of April, 2023

ALPHA OSMAN TIMBO

*Minister of Labour and Social Security*FREETOWN,
SIERRA LEONE