

THE TRADE DISPUTES (AMENDMENT) ACT, 1947.

[BURMA ACT NO. XXXV OF 1947.]

[15th August 1947.]

WHEREAS it is expedient to amend the Trade Disputes Act ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by 6. under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers it is hereby enacted by the Governor of Burma as follows.—

1. (1) This Act may be called (the Trade Disputes (Amendment) Act, 1947.

(2) It shall come into force on such date as the Governor may, in that behalf, notify.

2. After sub-clause (b) in section 2 of the Trade Disputes Act, hereinafter referred to as the said Act, the following sub-clauses shall be inserted, namely :—

“(aa) ‘award’ means any interim or final determination arrived at by the Industrial Court in an arbitration proceeding arising out of any reference to it under section 9.

(bb) ‘Industrial Court’ means the Court of Industrial Arbitration constituted under section 8.

(dd) ‘Industry’ means,—

(a) any business, trade, manufacture or undertaking or calling of employers ;

(b) any calling, service, employment, handicraft or industrial occupation or avocation of employees.”

3. After sub-clause (i) of clause (g) of section 2 of the said Act, the following shall be inserted as sub-clause (ii), namely :—

“(ii) any water transport service carrying passengers, to whose vessels any of the provisions of the Inland Steam Vessels Act apply, or any port service, which the Governor may by notification in the Gazette declare to be a public utility service for the purposes of this Act ; or ”

and the present sub-clauses (ii), (iii) and (iv) of the said clause (g) shall be renumbered as sub-clauses (iii), (iv) and (v) respectively.

4. For section 3 of the said Act, the following section shall be substituted, namely :—

“ 3. If any trade dispute exists or is apprehended between an employer and any of his workmen, the Governor may, if

‘Price,—Annas 0-2-0.]

he thinks fit, exercise all or any of the following powers, namely:—

- (a) enquire into the causes and circumstances of the dispute ;
- (b) take such steps as may seem expedient for the purpose of enabling the parties to the dispute to meet together, by themselves or their representatives, under the presidency of a chairman, mutually agreed upon or nominated by the Governor or by some other person or body authorized by the Governor with a view to the amicable settlement of the dispute ;
- (c) on the application of employers or workmen interested, and after taking into consideration the existence and adequacy of means available for conciliation in the district or trade and the circumstances of the case, appoint by order in writing a person or persons to act as a Board of Conciliation for promoting a settlement of the dispute ;
- (d) refer any matters appearing to be connected with or relevant to the dispute to a Court of Inquiry to be appointed by the Governor :

Provided that where both parties to the dispute apply, whether separately or conjointly, for a reference to a Court, or where both parties apply, whether separately or conjointly, for a reference to a Board, and the authority having the power to appoint is satisfied that the persons applying represent the majority of each party, a Court or a Board, as the case may be, shall be appointed accordingly."

5. In sub-section (2) of section 6 of the said Act, for the words "shall be either independent persons or persons appointed in equal numbers to represent the parties to the dispute ;" the following words shall be substituted, namely:—

"may include independent persons, or persons appointed in equal numbers to represent the parties to the dispute, or both ;"

6. After section 7 of the said Act, the following sub-head and sections shall be inserted, namely:—

"Court of Industrial Arbitration."

8. (1) The Governor may by notification in the official Gazette, constitute a Court of Industrial Arbitration.

(2) The Industrial Court shall consist of three or more members, one of whom shall be its Chairman. The Chairman shall be a barrister or an advocate of not less than five years' standing.

(3) Every member of the Industrial Court shall be a person who is not connected with any industry :

Provided that when a dispute is referred to the Industrial Court under section 9, the Governor may, in respect of any particular reference, appoint a person who possesses expert knowledge of industrial matters to advise the Industrial Court in matters connected with or arising out of the dispute under reference, but no person shall,

by virtue of such appointment, be considered to be a member of the Industrial Court or to have a right to decide any matter under reference before such Court.

9. The Governor may, at any time, refer a trade dispute to the arbitration of the Industrial Court, if he is satisfied that—

- (a) by reason of the continuance of the dispute—
 - (i) a serious outbreak of disorder or a breach of the public peace is likely to occur, or
 - (ii) serious or prolonged hardship to a large section of the community is likely to be caused, or
 - (iii) the industry concerned is likely to be seriously affected or the prospects and scope of employment therein curtailed; or
- (b) the dispute is not likely to be settled by other means; or
- (c) it is necessary in the public interest to do so.

10. (1) The Industrial Court shall on a dispute being referred to it under section 9 make such award as it thinks fit and proper after due enquiry and consideration. The award shall be signed by all the members of the Industrial Court. A copy of the award made by it shall be forwarded to each of the parties and to the Governor.

(2) On receipt of such award the Governor shall have it published in the official Gazette.

11. The award shall come into operation on the date specified in the award or when no such date has been specified therein on the date on which it is published under section 10.

12. The arbitration proceeding shall be deemed to have been completed when the award is published under section 10.

13. An award of the Industrial Court shall be binding on—

- (a) all parties to the trade dispute who appeared or were represented before it;
- (b) all parties who were summoned to appear as parties to the dispute whether they appeared or not, unless the Industrial Court is of opinion that they were improperly made parties;
- (c) in the case of an employer who is a party to the proceeding before such Court in respect of the undertaking to which the dispute relates, his successors, heirs or assigns in respect of the undertaking to which the dispute relates;
- (d) in the case of a union registered under the Trade Unions Act, which is a party to the proceeding before such Court, all persons represented by the union at the date of the award, as well as thereafter; and
- (e) in the case of an association which is not registered under any law for the time being in force, all persons who are members of the working or managing committee thereof.

14. No award of the Industrial Court shall be called in question in any civil or criminal Court."

7. The present sections 8, 9, 10, 11 and 12 of the said Act shall be renumbered as sections 15, 16, 17, 18 and 19, respectively.

8. After the word "Board" in section 15 of the said Act as renumbered, the following words *shall be inserted*, namely :—

" or the Industrial Court. "

C. In section 16 of the said Act as renumbered,

(a) immediately below the present sub-section (1), the following paragraph *shall be added* as a part thereof, namely :—

"The Industrial Court shall make rules prescribing the procedure for the hearing and conduct of a trade dispute referred to it under section 9": and

(b) in sub-section (2)—

(i) for the expression "and Boards" the following expression *shall be substituted*,—

"Boards and Industrial Courts," and

(ii) *between* the word "Board" and the word "shall", the following expression *shall be inserted*, namely,—

"or Industrial Court."

10. In sub-section (1) of section 17 of the said Act as renumbered—

(a) immediately after the word "Board" wherever it occurs, the following expression *shall be inserted*, namely,—

"or Industrial Court";

(b) for the word "person" the following expression *shall be inserted*, namely :—

"or qualified person, as the case may be."

11. After section 19 of the said Act as renumbered, the following section *shall be inserted*, namely :—

"20. (1) If any party or person on whom the award is binding fails to carry out the terms of any award of the Industrial Court he shall, on conviction, be punishable with fine which may extend to Rs. 1,000 for every day on which the terms of the award are not carried out.

(2) When the employer is a corporation, company or other association of persons, any Secretary, Director or other officer or person concerned with the management thereof, shall be punishable for the failure of the corporation, company or other association of persons, as the case may be, to comply with the terms of the award made by the Industrial Court under section 10.

(3) No Court shall take cognizance of any offence under this section, save on complaint made by or under authority from the Governor.

(4) No Court inferior to that of a Magistrate of the first class shall try any offence under this section."

12. The present sections 13, 14, 15, 16, 17 and 18 of the said Act *shall be renumbered* as sections 21, 22, 23, 24, 25 and 26, respectively.

13. Immediately *after* the word "Board", wherever it occurs in section 22 of the said Act as renumbered, the following words *shall be inserted*, namely :—

" or Industrial Court."

14. *For* the expression "section 16" in sub-section (1) section 25 of the said Act as renumbered, the following expression *shall be substituted*, namely :—

" section 24."

15. *After* section 26 of the said Act as renumbered, the following section *shall be inserted*, namely :—

" 27. (1) The Governor may by notification in the official Gazette, appoint officers, herein referred to as Conciliation Officers, charged with the duty of mediating in or promoting the settlement of trade disputes.

(2) A Conciliation Officer may be appointed for a specified area or for specified businesses, industries or undertakings in a specified area or for one or more specified businesses, industries or undertakings and either permanently or for a limited period.

(3) A Conciliation Officer may, for the purpose of inquiring into an existing or apprehended trade dispute after giving reasonable notice, enter the premises occupied by any industry, business or undertaking and may call for and inspect any document which he has ground for considering to be relevant to the trade dispute, and for the purposes of any such inquiry shall be deemed to be a public servant within the meaning of the Penal Code.

(4) If any person supplying information or producing a document to a Conciliation Officer requests in writing that the information or the document or any part thereof shall be treated as confidential the Conciliation Officer shall not disclose such information or the contents of such document or part thereof except to—

(a) the authority which appointed him to be a Conciliation Officer; or

(b) the parties concerned in the dispute for the purpose of mediating therein or promoting the settlement thereof.

(5) If a Conciliation Officer contravenes the provisions of sub-section (4), he shall be punishable with a fine which may extend to one hundred rupees.

(6) No criminal Court shall take cognizance of an offence under this section except with the previous sanction of the authority appointing the Conciliation Officer concerned; and no civil Court shall without the like sanction entertain any suit against a Conciliation Officer in respect of the disclosure of any information or the contents of any document or part thereof of the nature referred to in sub-section (4)."

16. The present section 19 of the said Act *shall be renumbered* as section 28.

17. In sub-section (2) of section 28 of the said Act as renumbered—

(a) for the expression "and Boards" in clauses (a) and (b), the following expression *shall be inserted*, namely:—

"Boards and Industrial Courts"; and

(b) immediately *after* the word "Board" in clauses (c) and (d), the following expression *shall be inserted*, namely:—

"or the Industrial Court."