

CHAPTER V.

PENALTIES AND PROCEDURE.

31. (1) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any provision of this Act, every officer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such officer or person, every member of the executive of the Trade Union, shall be punishable with fine which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues.

Provided that the aggregate fine shall not exceed fifty rupees.

(2) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28, or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which may extend to five hundred rupees.

32. Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union, or of any alterations to the same, which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which may extend to two hundred rupees.

33. (1) No Court inferior to that of a Magistrate of the first class shall try any offence under this Act.

(2) No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made by, or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

THE TRADE DISPUTES ACT.

[INDIA ACT VII, 1929.] (8th May, 1929.)

1 1. This Act shall extend to the whole of the Union of Burma.

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

(a) "Board" means a Board of Conciliation constituted under this Act;

(b) "Court" means a Court of Inquiry constituted under this Act;

¹ Inserted by Act, X, 1950.

- ¹ (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 :
- ¹ (bb) "Industrial Court" means the Court of Industrial Arbitration constituted under section 8 :
- ¹ (dd) "Industry" means—
- (i) any business, trade, manufacture or undertaking or calling of employers :
 - (ii) any calling, service, employment, handicraft or industrial occupation or avocation of employees :
- (ee) "conciliation officer" means a conciliation officer appointed under this Act :
- (c) "employer", in the case of any industry, business or undertaking carried on by any department of the Government, means the authority prescribed in this behalf or, where no authority is prescribed, the head of the department :
- (d) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Court or a Board if he is unconnected with the dispute with reference to which the Court or the Board is appointed and with any trade or industry directly affected by the dispute :
- (e) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, where such closing, suspension or refusal occurs in consequence of a trade dispute :
- (f) "prescribed" means prescribed by rules made under this Act :
- (g) "public utility service" means—
- (i) any railway service which the President of the Union may, by notification in the Gazette, declare to be a public utility service for the purposes of this Act ; or
 - ¹ (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 President of the Union may, by notification in the Gazette, declare to be a public utility service for the purposes of this Act ; or
 - (iii) any postal, telegraph or telephone service ; or
 - (iv) any industry, business or undertaking which supplies light or water to the public ; or
 - ⁴ (v) any industry, business or undertaking supplying mineral oil or its products to the public, which the President of the Union

¹ Inserted by Act XXXV, 1947.

² Inserted by Act X, 1950.

³ Substituted *ibid.*

⁴ Inserted by Act XLIII, 1948.

may, by notification, declare to be a public utility service for the purposes of this Act ; or

(vi) any system of public conservancy or sanitation ;

(h) " railway company " means a railway company as defined in section 3 of the Railways Act ;

(i) " strike " means a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment ;

¹ (j) " trade dispute " means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or service including pension, gratuity, bonus and allowances, or with the conditions of labour, of any person ; and

¹ (k) " workman " means any person employed, whether for wages or not, in any trade or industry to do any skilled or unskilled, manual or clerical work and includes, for the purpose of proceedings under this Act in relation to a trade dispute, a workman discharged or dismissed during that dispute but does not include any person employed in the Naval, Military or Air Services of the Union of Burma.

² 2A. (1) In the case of any industry in which fifty or more workmen are employed or have been employed on any day in the preceding twelve months, the President of the Union may, by general or special order, require the employer to constitute in the prescribed manner Works Committee or Committees consisting of representatives of employers and workmen engaged in the industry so, however, that the number of representatives of workmen on the Works Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the industry and in consultation with their trade union, if any, registered under the Trade Unions Act.

(2) It shall be the function of the Works Committees to secure the greater measure of co-operation between the management and the employees with a view to its increased efficiency and the well-being of the employees and also to provide means whereby the employees can be kept informed of the state of the industry and particularly in—

(a) questions concerning the safety, health and welfare of the employees ;

(b) recreation of the employees, at or away from place of work ;

(c) questions of education and training of the employees ;

¹ Substituted by Act X, 1950.

² Inserted by Act LXXIII, 1954.

- (d) related personnel problems, including any individual grievance which the Works Committee may decide to consider ;
- (e) improvements in methods of production, such as efficient use of the maximum number of production hours and economy in the use of materials ;
- (f) provision of the best means for utilising the ideas and suggestions of the employees and encouragement of them to put forward ideas and suggestions ; and
- (g) any matter affecting the industry concerned which it shall decide to take into its consideration.

(3) The President of the Union may, by order, direct that his power under sub-section (1) shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by any officer or authority subordinate to him.

Reference of Disputes to Courts and Boards.

1 3. If any trade dispute exists or is apprehended, [* * * *] 2 the President of the Union may, if he thinks fit, exercise all or any of the following powers, namely:—

Reference of disputes to Courts or Boards.

- (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 President of the Union or by some other person or body authorized by the President of the Union 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 President of the Union ;

Provided that where both parties to the dispute apply, whether separately or conjointly, for a reference to a Court, or whether 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.

Courts of Inquiry.

4. (1) A Court shall consist of an independent chairman and such

Constitution of Courts.

¹ Substituted by Act XXXV, 1947.

² Deleted by Act LXXIII, 1954.

other independent persons as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person.

(2) A Court, having the prescribed quorum, may act notwithstanding any vacancy in the number of its members other than the chairman.

Duties of
Courts.

5. (1) A Court shall, either in public or in private, at its discretion, inquire into the matters referred to it and report thereon to the authority by which the Court was appointed.

(2) A Court may, if it thinks fit, make interim reports.

Boards of Conciliation.

Constitution
of Boards.

6. (1) A Board shall consist of a chairman and two or four other members, as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person.

(2) Where the Board consists of more than one person, the chairman shall be an independent person and the other members [may include independent persons, or persons appointed in equal numbers to represent the parties to the dispute, or both];¹ all persons appointed to represent any party shall be appointed on the recommendation of that party :

Provided that, if any party fails to make the necessary recommendation within the prescribed time, the appointing authority shall select and appoint such persons as it thinks fit to represent that party.

(3) A Board, having the prescribed quorum, may act notwithstanding any vacancy in the number of its members other than the chairman :

Provided that, where a Board includes an equal number of persons representing the parties to the dispute and the services of any such person cease to be available before the Board has completed its work, the authority appointing the Board shall appoint, in the manner specified in sub-section (2), another person to take his place, and the proceedings shall be continued before the Board so re-constituted.

Duties of
Boards.

7. (1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same, and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits thereof and the right settlement thereof, and in so doing may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute, and may adjourn the proceedings for any period sufficient in its opinion to allow the parties to agree upon terms of settlement.

(2) If a settlement of a dispute is arrived at by the parties thereto after it has been referred to a Board and during the course of the investigation thereof, a memorandum of the settlement shall be drawn up by the Board and signed by the parties, and the Board shall send a report of the settlement, together with the memorandum, to the authority by which the Board was appointed.

¹ Substituted by Act XXXV, 1947.

(3) If no such settlement is arrived at during the course of the investigation, the Board shall, as soon as possible after the close thereof, send a full report regarding the dispute to the authority by which the Board was appointed, setting forth the proceedings and steps taken by the Board for the purpose of ascertaining the facts and circumstances relating to the dispute and of bringing about a settlement thereof, together with a full statement of such facts and circumstances and its findings thereon and the recommendation of the Board for the determination of the dispute.

(4) The recommendation of the Board shall deal with each item of the dispute, and shall state in plain language what in the opinion of the Board ought and ought not to be done by the respective parties concerned.

¹(5) If an agreement in a dispute is arrived at between the parties thereto, as a result of the negotiations conducted by either a Board or a Conciliation Officer, such an agreement duly signed by the accredited representatives of both parties shall be legally binding upon both parties to the dispute and failure on the part of either party to comply with or carry out any of the terms of such agreement shall be punishable with simple imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Court of Industrial Arbitration.

²8. (1) There shall be a standing Court of Industrial Arbitration, consisting of such number of persons as the President of the Union may, by notification, think fit to appoint.

(2) The Chairman of the Industrial Court and the Chairman of any division of the Industrial Court shall be such persons being barristers or advocates of not less than five years' standing, as the President of the Union may, by order, given either generally or specially, direct.

(3) For the purpose of dealing with any matter which may be referred to it, the Industrial Court shall be constituted of such of the members, not being less than two, of the Industrial Court as the Chairman of the Industrial Court may direct.

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

Provided that when [any matter in dispute]³ is referred to the Industrial Court under section 9, the President of the Union 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 * * * *⁴ 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 President of the Union may, at any time, refer [any particular matter at issue in]¹ a trade dispute to the arbitration of the Industrial Court.

¹ Inserted by Act XLIII, 1948

² Sub-sections (1) to (3) were substituted by Act XII, 1951, and existing sub-section (3) was renumbered as sub-section (4) by the same Act.

³ Substituted by Act XLIII, 1948.

⁴ Deleted *ibid.*

⁵ Inserted by Act XXXV, 1947.

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.

¹ 10. (1) The Industrial Court shall on a matter² being referred to it under section 9 make such award as it thinks fit and proper after due enquiry and consideration. * * * *³ A copy of the award made by it shall be forwarded to each of the parties and to the President of the Union.

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

⁴ (3) Where the members of the Industrial Court are not unanimous, the matter shall be decided by a majority.

⁴ (4) Where each of the members, including the Chairman, holds conflicting views, the matter shall be decided by the Chairman acting with the full powers of an Umpire.

¹ 11. ⁵ (1) 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.

⁵ (2) The award shall remain in force for a period of six months ; and thereafter it shall continue to be in force subject to such modifications, if any, as may be made under sub-section (3).

⁵ (3) After the lapse of six months from the date of an award—

(i) either party may, at any time, apply to the Government for reconsideration of the award by the Industrial Court, and the Industrial Court may, on reference, make such modification in respect of any item of the award as it may deem fit ; and the provisions of sections 10 and 11 in respect of an award shall apply to such modification ; or

(ii) the parties may agree to make any modification in respect of any item of the award by direct negotiation or through the intervention of a neutral person. Such modification shall take effect on the date of the agreement between the parties concerned. Within fifteen days of the ratification of such an agreement, a copy thereof shall be filed with the Industrial Court.

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

¹ Inserted by Act XXXV, 1947.

² Substituted by Act XLIII, 1948.

³ Deleted *ibid.*

⁴ Inserted *ibid.*

⁵ Original section 11 was re-numbered as sub-section (1) thereof and sub-sections (2) and (3) were inserted *ibid.*

¹ 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 ;
- ²(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all workmen who were employed in the undertaking or part of the undertaking, as the case may be, to which the dispute relates on the date of the dispute and all workmen who subsequently become employees in that undertaking or part of the undertaking.

³(e) * * * *

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

⁴ 14A. When a matter in dispute has been referred to the Industrial Court, [* * *]³ the continuance of any strike or lock-out in connection with such matter shall be illegal.

⁵ 14B. No workman who is employed in any industry shall go on strike or continue a strike and no employer of any such workmen shall declare a lock-out in breach of contract :—

- (i) during the pendency of conciliation proceedings before a Board or Conciliation Officer and seven days after the conclusion of such proceedings ; or
- (ii) during the pendency of proceedings before an Industrial Court and two months after the conclusion of such proceedings ; or
- (iii) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award, in respect of any matter, which has been the subject of consideration in such conciliation proceedings or before the Industrial Court as proceedings are referred to in clauses (i) and (ii).

⁶ 14C. When the matter in dispute relating to the discharge, retrenchment or reduction of workmen has been referred to the Industrial Court, the employer shall not, pending the award by the Industrial Court, discharge, retrench or reduce any workman in his employment, except for reasons

¹ Inserted by Act XXXV, 1947.

² Substituted by Act LXXIII, 1954.

³ Deleted *ibid.*

⁴ Inserted by Act XLIII, 1948.

⁵ New section 14B inserted by Act LXXIII, 1954.

⁶ Substituted for original section 14B as sections 14C and 14D *ibid.*

unconnected with the dispute under reference and anything done or any action taken by the employer contrary to the provisions of this section shall be illegal, and he shall be punishable with simple imprisonment which may extend to three months, or with fine which may extend to two hundred kyats, or with both :

Provided that where the employer committing an offence under this section is a corporation, company or other association of persons, any secretary, director, or other officer or person concerned with the management thereof shall be deemed to have committed the offence unless he proves that the offence was committed without his knowledge or his consent.

¹ 14D. During the pendency of any proceedings before an Industrial Court, the employer shall not alter, to the prejudice of the workmen concerned in such a dispute, the conditions of service applicable to them immediately before the commencement of such proceedings.

General.

Finality of orders constituting Court or Board.
Procedure and powers.

15. No order of the President of the Union appointing any person as a member of a Court or a Board [or the Industrial Court] - shall be called in question in any manner.

16. (1) Courts and Boards shall, subject to the provisions of this Act, follow such procedure as may be prescribed.

-The Industrial Court shall make rules prescribing the procedure for the hearing and conduct of [the matters]¹ referred to it under section 9.

(2) Courts, [Boards and Industrial Courts]² shall have the same powers as are vested in Courts under the Code of Civil Procedure when trying a suit in respect of the following matters :—

(a) enforcing the attendance of any person and examining him on oath ;

(b) compelling the production of documents and material objects ;
and

(c) issuing commissions for the examination of witnesses ;

and shall have such further powers as may be prescribed ; and every inquiry or investigation by a Court or Board [or Industrial Court]² shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Penal Code.

¹(3) Every member of a Court, Board or Industrial Court shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

Filling of vacancies.

17. (1) If the services of the chairman or of any other independent member of a Court or Board [or Industrial Court] - cease to be available at any time for the purposes of the Court or Board [or Industrial Court], - the appointing authority shall in the case of a chairman, and may in the case of any other member, appoint another independent [or qualified person, as the

¹ Substituted for original section 14B as sections 14C and 14D by Act LXXIII, 1954.

² Inserted by Act XXXV, 1947.

³ Substituted *ibid.*

⁴ Inserted by Act X, 1950.

⁵ Substituted by Act XLIII, 1948.

case may be.]¹ to fill the vacancy, and the proceedings shall be continued before the Court or Board [or Industrial Court]¹ so re-constituted.

(2) Where the Court or Board consists of one person only and his services cease to be available as aforesaid, the appointing authority shall appoint another independent person in his place, and the proceedings shall be continued before the person so appointed.

18. The report of a Court or Board shall be in writing and shall be signed by all the members of the Court or Board : Form of report.

Provided that nothing in this section shall be deemed to prevent any member of a Court or Board from recording a minute of dissent from a report or from any recommendation made therein.

19. (1) The final and any interim report of a Court or Board, together with any minute of dissent recorded therewith, shall, as soon as possible after its receipt by the authority by which the Court or Board was appointed, be published by that authority in such manner as it thinks fit. Publication or results of inquiry.

(2) The said authority may publish or cause to be published from time to time, in such manner as such authority thinks fit, any information obtained, or conclusions arrived at, by the Court or Board as the result or in the course of its inquiry or investigation.

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 President of the Union.

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

21. (1) Notwithstanding anything contained in section 12, there shall not be included in any report or publication made or authorized by a Court or Board or the authority appointing a Court or Board any information obtained by the Court or Board in the course of its inquiry or investigation as to any Trade Union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through evidence given before the Court or Board, if the Trade Union, person, firm or company in question has preferred a request to the Court or Board that such information shall be treated as confidential, nor shall any individual member of the Court or Board or any person concerned in the proceedings before it disclose any such information without the consent in writing of the Certain matters to be treated as confidential.

¹ Inserted by Act XXXV, 1947.

Secretary of the Trade Union or the person, firm or company in question, as the case may be.

(2) If any member of a Court or Board or any person present at or concerned in the proceedings before a Court or Board wilfully discloses any information in contravention of the provisions of sub-section (1), he shall, on complaint made by or under the authority of the Trade Union or individual business affected, be punishable with fine which may extend to one thousand rupees :

Provided that nothing in this sub-section shall apply to the disclosure of any such information for the purposes of a prosecution under section 193 of the Penal Code.

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

(4) No criminal Court shall take cognizance of any offence under this section except with the previous sanction of the authority appointing such Court or Board ; and no civil Court shall without the like sanction entertain any suit against a member of a Court or Board, or any person present at or concerned in the proceedings before a Court or Board, for any matter arising out of such proceedings.

Representa-
tion of
parties.

22. Subject to such conditions and restrictions as may be prescribed, any party to a dispute under inquiry or investigation by a Court or Board [or Industrial Court]¹ shall be entitled to be represented before the Court or Board [or Industrial Court]¹ by a legal practitioner.

Special Provision regarding Public Utility Services.

Sudden
strikes and
lock-outs
in utility
services

23. (1) Any person who, being employed in a public utility service, goes on strike in breach of contract without having given to his employer, within one month before so striking, not less than fourteen days' previous notice in writing of this intention to go on strike or, having given such notice, goes on strike before the expiry thereof, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer carrying on any public utility service who locks out his workmen in breach of contract without having given them, within one month before such lock-out, not less than fourteen days' notice in writing of his intention to lock them out, or, having given such notice, locks them out before the expiry thereof, shall be liable to imprisonment which may extend to one month, or to a fine which may extend to one thousand rupees, or with both.

(3) Where the employer committing an offence under sub-section (2) 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 as therein provided unless he proves that the offence was committed without his knowledge or without his consent.

¹ Inserted by Act XXXV, 1947.

(4) No Court shall take cognizance of any offence under this section or of the abetment of any such offence save on complaint made by, or under authority from, the President of the Union.

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

24. (1) A strike or a lock-out shall be illegal which—

- (a) has any object other than the furtherance of a trade dispute within the trade or industry in which the strikers or employers locking out are engaged; and
- (b) is designed or calculated to inflict severe, general and prolonged hardship upon the community, and thereby to compel the Government or the Railway Administration to take or abstain from taking any particular course of action.

Illegal strikes
and lock-
outs.

(2) It shall be illegal to commence or continue, or to apply any sums in direct furtherance or support of any such illegal strike or lock-out.

(3) For the purposes of this section—

- (a) a trade dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen, or between workmen and workmen, in that trade or industry, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of persons in that trade or industry;
- (b) without prejudice to the generality of the expression "trade or industry", workmen shall be deemed to be within the same trade or industry if their wages or conditions of employment are determined in accordance with agreements made with the same employer or group of employers.

(4) A strike or a lock-out shall not be deemed to be calculated to compel the Government or the Railway Administration unless such compulsion might reasonably be expected as a consequence thereof.

25. (1) If any person declares, instigates, incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under the provisions of [section 14A or section 24],¹ he shall be punishable with simple imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both: Penalty.

Provided that no person shall be deemed to have committed an offence under this section by reason only of his having ceased work or refused to continue to work or to accept employment.

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

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

¹ Amended by Acts XXXV, 1947, and XI, 1948.

Protection of
members of the
holding from
illegal strike
or lock-out.

26. (1) No person refusing to take part, or to continue to take part, in any strike or lock-out which is illegal under the provisions of section 16 shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

27. (1) The President of the Union 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. * * * * *

(3A) Every Conciliation Officer shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

(3B) Every Conciliation Officer shall have the power to serve notice on any party to a trade dispute requiring such party either to attend in person or to send an accredited representative or representatives to attend and participate in the conciliation proceedings before him, if he is satisfied that there is no likelihood of such dispute being settled between the parties concerned without his intervention.

If any party to a trade dispute who is duly served with such notice fails without good causes shown to attend in person or to send an accredited representative or representatives to attend and participate in the conciliation proceedings before the Conciliation Officer within such time as may be

¹ Inserted by Act XXXV, 1947.

² Inserted by Act X, 1950.

³ Inserted by Act LXXI, 1951, and subsequently substituted by Act LXXIII, 1954.

⁴ Deleted by Act X, 1950.

specified by him such defaulting party shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one hundred kyats, or with both.

(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).

Duties of Conciliation Officers.

127A. (1) Where any industrial dispute exists or is apprehended the Conciliation Officer may, or where the dispute relates to a public utility service, shall hold conciliation proceedings in the prescribed manner.

(2) The Conciliation Officer shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the Conciliation Officer shall send a report thereof to the President of the Union or to the authority appointed by him in that behalf together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the Conciliation Officer shall, as soon as practicable after the close of the investigation, send to the President of the Union or to the authority appointed by him in that behalf, a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reason on account of which, in his opinion, a settlement could not be arrived at.

(5) A report under this section shall be submitted within a week of the termination of the conciliation proceedings or within such shorter period as may be fixed by the President of the Union.

¹ Inserted by Act LXXIII, 1954.

Rules.

Power to
make rules.

28. (1) The President of the Union may make rules¹ for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

²(a) the powers and procedure of Courts and Boards, including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation and the number of members necessary to form a quorum;

³(a1) the powers of the Industrial Courts, including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry;

³(a2) enabling the Industrial Court to sit in two or more divisions;

⁴(a3) the powers of Conciliation Officers and the procedure to be followed by them;

(b) the allowances admissible to members of Courts, Boards and Industrial Courts and to witnesses;

(c) the ministerial establishment which may be allotted to a Court or Board or the Industrial Court and the salaries and allowances payable to members of such establishments;

(d) the conditions and restrictions subject to which persons may be represented by legal practitioners in proceedings under this Act before a Court or Board or the Industrial Court;

(e) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be published in the Gazette and shall, on such publication, have effect as if enacted in this Act.

THE DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT. *

[BURMA ACT III, 1948.] (2nd January, 1948.)

It is hereby enacted as follows:—

1. This Act may be called the Dock Workers (Regulation of Employment) Act, 1948.

2. In this Act:—

(a) "cargo" includes anything carried or to be carried in a ship or other vessel;

¹ For Industrial Court Rules, 1952, see *Burma Gazette*, 1952, Part I, page 294.

² Substituted by Act XII, 1951.

³ Inserted *ibid.*

⁴ Inserted by Act LXXIII, 1954.

* Published in Judicial Department Notification No. 2, dated 2nd January 1948 (*Burma Gazette*, 1948, Part I, page 53).