

**THE LABOUR RELATIONS
ACT NO.1 OF 2005**

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ACT NO.1 OF 2005

I ASSENT

**{AMANI ABEID KARUME}
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

5th March, 2005

**AN ACT TO PROVIDE FOR THE REGULATION OF LABOUR RELATIONS
AND DISPUTE RESOLUTION BETWEEN EMPLOYERS AND EMPLOYEES
AND MATTERS RELATED THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

Short Title and
Commencement.

1.(1) This Act may be cited as the Labour Relations Act 2005 and shall come into operation on such date as the Minister shall by notice published in the gazette, appoint.

(2) The Minister may defer the coming into operation of any part or provision of this Act for a period not exceeding twelve months from the commencement date.

(3) The provision whose operation is deferred by the Minister under subsection (2) of this section shall become operational on the date appointed by the Minister or after the

expiry of twelve months whichever comes earlier.

Application.

2.(1) This Act shall apply to -

- (a) all employees, engaged to work in Zanzibar;
- (b) all employers who engage employees described under paragraph (a);

(2) This Act shall not apply to -

- (a) Judges and all Judiciary officers;
- (b) Members of Special Departments;
- (c) Employees of the House of Representatives.

(3) Notwithstanding any law to the contrary the Act shall apply to the Free Economic Zones with such restrictions as the Minister in consultation with the Labour Advisory Board shall by regulation prescribe.

(4) Unless expressly excluded the provisions of Part I to VI of this Act apply equally to trade unions and employers organisations.

Interpretation.

3.(1) Interpretation of this Act shall be made in a manner that will give effect to obligation of Zanzibar under various International Labour treaties to which the United Republic of Tanzania as a member State of the International Labour Organisation has ratified.

(2) In this Act unless the context otherwise requires:

“award” includes agreement reached after mediation, decision of arbitrator and decision of the Court

following review of an award;

“bargaining unit” means the level at which collective bargaining is taking place;

“branch” means any number of the members of a registered trade union who have in accordance with the constitution of the registered trade union appointed their own management committee but who are under the control of the executive committee of such trade union and are bound under the constitution of such trade union to contribute to its general funds;

“Commission” means the Labour Commission established under the Labour Act;

“constitution” means the constitution of a trade union or organisation;

"contract of employment" means any contract whether in writing or oral, whether express or implied, to employ or to serve as an employee for any period of time or number of days to be worked, or to execute any task or piece of work or to perform any journey and includes a foreign contract of service;

"Court" means the Industrial Court established under this Act;

“Court of Appeal” means the Court of Appeal of Tanzania;

“Director of Public Prosecutions” means the Director of Public Prosecutions appointed under the Zanzibar Constitution, 1984 and includes any officer authorised to act on that behalf;

"dispute resolution authority" means mediator, arbitrator or Court whichever has the authority in respect of a particular dispute;

"employee" means any person who has entered into or works under a contract of service with an employer whether by way of manual labour, clerical work or otherwise and whether the contract is expressed or implied or is oral or in writing, and shall include any such person in the employment of the Government or of any local authority or private sector or any apprentice and learner who has entered into or works under any agreement whether expressed or implied or whether oral or in writing;

"employer" means any person, or any firm, corporation or company, public authority or body of persons who or which has entered into a contract of service to employ any person and includes the Government;

"employers' organisation" means any association of employers the principal purposes of which are the representation of employers' interests and the regulation of relations between employers and employees, and includes a federation of employers' organisation;

"essential service" means any service, whether rendered by the Government or any other body or person, the interruption of which is likely to endanger the life, health or personal safety of the whole or part of the population, and includes services mentioned under section 64(2) of this Act;

"executive" means the body entrusted with the

management of the affairs of the trade union or employers' association;

"federation" means any combination or association of two or more trade unions which have a separate legal existence from the trade unions of which they are comprised;

"Labour Advisory Board" means the Labour Advisory Board established under the Labour Act;

"Labour Commissioner" means Labour Commissioner appointed under the Labour Act;

"labour dispute" means any dispute or difference between an employer or employers and employees, or between employees and employees, connected with employment or non employment, or the terms or employment, or with the condition of labour, of any person, or with the economic and social interests of workers;

"labour officer" means a Labour Officer appointed under the Labour Act;

"local authority" means and includes a city council, a municipal council, town council, local council and District council;

"lock-out" means any action taken by an employer in contemplation or furtherance of a labour dispute which consist in the exclusion of a group of employees from a place of employment, the suspension of employment or work of a group of employees or a refusal to continue to employ a group of employees;

"maintenance service" means a service the interruption of which has the effect of material physical destruction to any working area, plant or machinery;

"Minister" means the Minister responsible for labour;

"minor" means a person who has not attained the age of majority under the laws of Zanzibar;

"official" means when used with reference to a trade union, includes any member of the executive committee thereof and any official of a branch thereof, but does not include a trustee or an auditor;

"organisation" means employers' organisation;

"picketing" means a peaceful means resorted in furtherance of a strike which does not go further than dissuading others who are not taking part in the strike from continuing their work;

"register" means the register of trade unions maintained by the Registrar under section 15 of this Act;

"registered office" means that office of a trade union which is registered under the provisions of section 29 of this Act;

"Registrar" means the person for the time being appointed by the Minister under the provisions of section 12(1) of this Act by name or by office to be or to act as Registrar of trade unions, and includes any person appointed by the Minister under section 12(2) of this Act to be or to act as an Assistant Registrar of trade unions;

“replacement labour” means labour service engaged to replace labour service of employees participating in a strike;

“representative trade union” means a trade union recognised as representing employees in a bargaining unit;

“secondary strike” means a strike or conduct in contemplation or furtherance of a strike undertaken by employees against an enterprise or employee in which they have no interest, in support of employees of that enterprise or employed by that employer;

“secondary employer” means employer of employees supported by other employees by way of secondary strike;

"strike" means the cessation of work by a body of persons employed, acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer in consequence of a trade dispute, done as a means of compelling their employer or any person or body of persons employed, or to aid other employees in compelling their employer, or any persons or body of persons employed, to accept or not to accept terms or conditions of or affecting employment;

"the Government" means the Revolutionary Government of Zanzibar, and includes all departments and all services, whether autonomous or semi-autonomous;

"trade union" means an association of employees, whether registered or not, having among its objects the representation and promotion of the interests of employees and the regulation of relations between employees and employers and includes a federation of trade unions unless it is clear from the context that only the first level association is meant, but does not include an association that is dominated by an employer and shall not include employers' association;

"tripartite committee" means a tripartite committee established under section 78 of this Act;

"Union" means a trade union as defined under this Act;

"Unit" means a dispute handling Unit established under section 72 of this Act.

PART II

FUNDAMENTAL RIGHTS

Basic employee's rights.

- 4.(1) Every employee shall have the right to:
 - (a) take part in the formation of a trade union or federation of trade union;
 - (b) be a member of a trade union, subject to its constitution;
- (2) Every member of a trade union has the right subject to the constitution of that trade union -
 - (a) to take part outside working hours, or with the consent of the employer within working hours, in the lawful

activities of a trade union of which he or she is a member;

- (b) to seek and hold office in a trade union of which he or she is a member, subject to its constitution;
- (c) to take part in the election of workplace representatives where provision is made for such election;
- (d) to be elected or appointed and serve as a workplace representative where provision is made for this;
- (e) to exercise any other right conferred by this Act.

(3) Every member of a trade union that is a member of a federation of trade unions has the right, subject to the constitution of that federation -

- (a) to participate in its lawful activities;
- (b) to participate in the election of any of its office bearers or officials; and
- (c) to stand for election and be eligible for appointment as an office bearer or official and, if elected or appointed, to hold office.

Protection of basic employee's rights in respect of freedom of association.

5.(1) No employer, and no person acting on behalf an employer, shall, with respect to any employee or person seeking employment –

- (a) require that he or she shall not join or shall relinquish membership in a trade union or shall not participate in lawful trade union activities;

- (b) discriminate or take or threaten any prejudicial action, including disciplinary action or dismissal, against such employee or person by reason of -
 - (i) trade union membership or participation in lawful trade union activities;
 - (ii) his or her exercise of any other right conferred by this Act; or
 - (iii) his or her participation in any capacity in any proceeding under this Act.
- (c) benefit or advantage, or promise to benefit or advantage, such employee or person for not exercising any right conferred by this Act or for not participating in any capacity in a proceeding under this Act.

(2) Any term in a contract of employment or collective agreement that seeks to restrain any employee from exercising any right conferred or recognised by this Act shall be null and void, whether agreed to before or after the coming into force of this Act.

(3) Nothing in this section shall be interpreted as preventing an employer from fairly dismissing, or disciplining by means of dismissal, an employee for a valid reason, in accordance with the Labour Act or any other relevant law or regulation.

Basic employer's rights.

- 6.(1) Every employer has the right to -
 - (a) take part in the formation of an employers' organisation;
 - (b) be a member of an organisation, in accordance with its constitution.

- (2) Every member of an employers' organisation has the right, subject to the constitution of that employers' organisation -
- (a) to take part in the lawful activities of any such organisation of which is a member;
 - (b) to hold office in any such organisation of which is a member, in accordance with its constitution;
 - (c) to exercise any right conferred by this Act.
- (3) Every member of an employers' organisation that is a member of a federation has the right, subject to the constitution of that federation -
- (a) to take part in its lawful activities;
 - (b) to take part in the election of any of its office bearers or officials; and
 - (c) to exercise any right conferred by this Act.

Protection of employees' and employers basic rights.

7.(1) Any person who is eligible under the constitution of a trade union or organisation has a right to be a member of that trade union or organisation on the payment of the required dues and to remain a member as long as he or she complies with the constitution of the trade union or organisation.

- (2) Any person who has the right to join has the right not to join such trade union or organisation.
- (3) Any term in an agreement which purports to -
- (i) preclude an employer from engaging an employee who is not a member of a trade

union or who is not recommended or approved by a trade union;

- (ii) require that one of the terms and conditions of employment of an employee shall be that the employee must become a member of a trade union.

shall be null and void.

(4) No union or organisation shall discriminate in its constitution or through its actions against any person on the grounds of race, colour, national extraction, social origin, religion, political opinion, sex, marital status, family responsibilities, age or disability, or impose any condition, restriction or obligation which is discriminatory.

(5) Notwithstanding the provisions of subsection (4) of this section, any provision, programme or activity that has as an object of the improvement of the condition of persons who are economically, socially, educationally or physically disadvantaged shall be lawful.

(6) No person who refuses to take or participate in, activities or otherwise to act in furtherance of any unlawful action shall, by reason of such refusal be subject to any disadvantage or prejudice, such as cancellation of membership, removal from office or fine or other penalty, by the organisation and trade union of which he or she is a member.

Protection of trade union against interference.

8.(1) No employer or employers' organisation and no person acting on behalf of an employer or employers' organisation, shall promote the establishment of an employees' organisation under the domination of an employer or employers' organisation, or shall support an employees' trade union by financial or other means with the object of placing such trade union under the control of an employer or employers' organisation.

(2) No union or organisation shall join or from part of trade union movement and shall be independent from political affiliation with any political party.

Federations.

9. Trade unions and employers' organisations, respectively, may form and, in accordance with their constitution, be members of and take part in the activities of, federations of trade unions and employers' organisations.

Affiliation to International Workers' and employers associations.

10. Any trade union or employers' organisation and any federation of trade unions or employers' organisations may affiliate with and participate in the activities of international workers or international employers' associations, may make financial and other contributions to such associations, and may receive financial and other assistance from them.

Remedies for infringement of freedom of association.

11.(1) Any complaint of infringement of this Part may be presented to the Labour Court.

(2) Where it is alleged that an employee or person seeking employment was discriminated against, dismissed, or otherwise prejudiced in violation of this Act it shall be for the employer to prove that the action taken was for a valid reason.

(3) Where the Court finds that the complaint is well founded, it shall make such order as it deems necessary in the circumstances to ensure compliance with the provisions of this Part, which shall include -

- (i) reinstatement if it is requested by the employee;
- (ii) the restoration to him or her of any benefit or advantage; and

- (iii) the payment of compensation for damages suffered and, where appropriate, of a punitive indemnity.

PART III **REGISTRATION**

Appointment of Registrar and Officials.

12.(1) The Minister shall appoint a Registrar of trade unions and employers organisations who shall be responsible for the due performance of the duties and functions assigned to him or her as Registrar under this Act.

(2) The Registrar shall perform any other act related to the trade union and employers organisations as directed by the Minister.

(3) The Minister may appoint one or more Assistant Registrars and such other officials as may from time to time be required for the purpose of this Act.

Protection of Officials.

13. No suit shall lie against any officer appointed under section 12 of this Act for anything done or omitted to be done by him or her in good faith and without negligence and in intended exercise of any power or performance of any duty conferred or imposed by this Act.

Trade Unions to be Registered.

14.(1) Every trade union or organisation not registered before the commencement of this Act shall either apply to be registered or be dissolved, within a period of six months from the commencement of this Act or the date of its formation, whichever is the later.

(2) Every trade union or organisation formed after the commencement of this Act shall within six months of its formation apply for registration failure of which shall be dissolved.

Application for registration.

15.(1) Any -

- (a) unregistered trade union composed of twenty (20) or more members;
- (b) federation of such trade unions or employers' organisation;
- (c) employers' organisation composed of five or more members;

which complies with this Act may apply to the Registrar for registration within six months of its formation.

(2) Application for registration of a trade union or employers organisation shall be accompanied by the following –

- (a) a prescribed form that has been properly completed;
- (b) two certified copies of the constitution and rules if any of a trade union or organisation;
- (c) any other information that may assist the registrar to determine whether or not the trade union or organisation meets the requirement for registration;
- (d) prescribed fee.

Register of trade unions and organisations.

16.(1) The Registrar shall keep and maintain in such form as may be prescribed, a register of trade unions and organisations in which shall be contained the prescribed particulars relating to any registered trade union and organisation and any alteration or change which may from time to time be effected in the name, constitution, officials, executive committee, or registered postal address thereof, or in the situation of the registered office thereof, and all such other matters as may be required to be contained therein under this Act or any Regulations made thereunder.

(2) A copy of any entry in the register certified under the hand of the Registrar shall, until the contrary be shown, be proof of the facts specified therein, as on the date of such certified copy.

Registration be in prescribed manner.

17. Subject to the provisions of this Act and subject to any Regulation made by the Minister in that respect, the Registrar shall register the trade union or organisation in the prescribed manner.

Certificate of registration.

18. The Registrar on registering a trade union or organisation shall issue to the trade union or organisation a certificate in the prescribed form and that certificate, unless proved to have been cancelled or withdrawn, shall be conclusive evidence for all purposes that the trade union or organisation has been duly registered under this Act.

Power of Registrar to call further particulars.

19. The Registrar may call for further information required under section 15 of this Act for the purpose of satisfying himself or herself that any application made by a trade union or association for registration complies with the provisions of section 15 of this Act or that the trade union is entitled to registration under this Act.

Power of Registrar to require alteration of name.

20. If the name under which a trade union or association is proposed to be registered is identical with that by which any other existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive or mislead the public or the members of either trade union or in his or her opinion is itself misleading, the Registrar shall require the persons applying for registration to alter the name of the trade union or organisation stated in the application, and shall refuse to register the trade union or organisation until such alteration has been made.

Refusal of registration.

21.(1) The Registrar may refuse to register any trade union or organisation if he or she is satisfied that -

- (a) it has not complied with the provisions of this Act or any Regulations made thereunder; or

- (b) the objects of the combination seeking registration are not in accordance with those set out in the definition of trade union or organisation contained in this Act; or
- (c) it is an association consisting of persons engaged in, or working at, more than one trade union or calling, and that its constitution does not contain suitable provisions for the protection and promotion of their respective trade union interests; or
- (d) it is a branch of a trade union or organisation other than a registered trade union or organisation.

(2) When the Registrar refuses to register a trade union or organisation, he or she shall notify the applicants in writing of the grounds of such refusal, and the trade union shall be deemed to be dissolved with effect from the date of such notification.

(3) Any person acting as an official of a trade union or organisation which has been deemed to be dissolved under the provisions of subsections (2) of this section or any person purporting so to act shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred thousand shillings and in the case of a continuing offence to a fine not exceeding ten thousand shillings for each day during which the offence continues in default of which to imprisonment for a term of not less than three months.

(4) It shall be no offence for a person to act on behalf of such a dissolved trade union or organisation for the purpose of -

- (a) any proceedings brought by or against any such union or organisation; or
- (b) dissolving such union or organisation and disposing of its funds in accordance with its constitution.

Cancellation of registration.

22.(1) The registration of a registered trade union or organisation may be cancelled by the Registrar -

- (a) at the request of the trade union or organisation upon its dissolution, to be verified in such manner as the Registrar may require;
- (b) if he or she is satisfied that the trade union or organisation has ceased to exist.

(2) Before exercising the powers under subsection (1) of this section the Registrar shall issue three months' notice in the gazette and media.

(3) The Registrar may apply before the Court to cancel the registration of a registered trade union or organisation if he or she is satisfied -

- (a) that in the case of a trade union, it has ceased to be independent of employer or employers' organisation;
- (b) that the objects for which the trade union or organisation that are actually carried on are such that, had they been declared as objects of the constitution of the union or organisation at the time of application for registration, the Registrar could have refused registration;
- (c) that any of the principal objects of the trade union or organisation is unlawful;
- (d) that the constitution of the trade union or organisation or of its executive committee is unlawful;
- (e) that the trade union or organisation is being used for any unlawful purpose;

- (f) that the trade union or organisation has wilfully and after notice from the Registrar contravened any of the provision of this Act or allowed any rule to continue in force which is inconsistent with any provision of this Act, or has rescinded any rule providing for any matter, for which provision is required by the Act to be made;
- (g) that the accounts of the union or organisation are not being kept in accordance with the provisions of this Act and of its constitution;
- (h) that the trade union or organisation was at the time of its registration, or has subsequently become, a branch of a trade union or association other than a registered trade union or association.

(4) Except in a case falling within subsection (1) of this section, not less than one month previous notice in writing specifying the grounds on which it is proposed to apply for cancellation of the registration shall be given by the Registrar to a trade union or organisation before such application for cancellation is applied.

(5) A trade union or organisation served with a notice under subsection (3) of this section may at any time within a period of one month show cause in writing against the proposal to apply to cancel of its registration, and if such cause is shown, the Registrar shall hold such inquiry as he or she may consider necessary in the circumstances.

(6) The Registrar may, after the expiration of the period of one month referred to in subsection (4) of this section, file application cancellation of the registration of any trade union or organisation which has failed to show cause under that subsection or which having so shown cause, has failed to satisfy him or her that its registration should not be cancelled.

(7) An application for cancellation of registration made by the Registrar under this section shall specify briefly the grounds for the cancellation of the registration and shall be also served on the trade union or association affected thereby.

Appeal.

23.(1) Any person aggrieved by the refusal of the Registrar to register a trade union or organisation may within 30 days appeal against such refusal or order to the Court and on such appeal the Court may make such order as it thinks proper, including any directions as to the costs of the appeal.

(2) Any person aggrieved by the decision of the Court under subsection (1) of this section or under section 22 may appeal to the Court of Appeal.

(3) The Chief Justice may make rules governing appeals to the Court providing for the method of giving evidence, and prescribing the time within which such appeals shall be brought, the procedure to be followed and the manner of notifying the Registrar of the appeal.

(4) The Registrar shall be entitled to be heard on any appeal.

(5) When a trade union or organisation appeals against the decision of the Registrar under the provisions of subsection (1) and (2) of this section and the appeal is dismissed the trade union or organisation shall be deemed to be dissolved with effect from the date of the dismissal of such appeal.

Consequences of Cancellation.

24.(1) If the registration of any registered trade union or organisation is cancelled under the provisions of section 22 of this Act -

- (a) the trade union or organisation, its officials and members shall cease to enjoy any of the rights, immunities, or privileges of a registered trade union, but without prejudice to any liabilities incurred or to be incurred by the trade union or organisation which may be enforced against the union and its assets;
- (b) the trade union or organisation shall be dissolved and its funds shall be disposed of in accordance with the constitution of the union or organisation or in the absence of such constitution under the directions of the Registrar;
- (c) the trade union or organisation shall within 60 days of cancellation deliver to the Registrar its certificate of registration for cancellation;
- (d) no person shall, except for the purpose of defending or bringing legal proceedings or dissolving the union or organisation and disposing of its funds in accordance with its constitution, take any part in its management or organisation, or act or purport to act on behalf of the union or as an officer of the union or organisation.

(2) If any trade union or organisation whose registration is cancelled is not dissolved, or if its certificate of registration is not delivered to the Registrar within three months, or such extended time as the Registrar may in his or her discretion in any particular case allow, after the date of cancellation or the date of the dismissal of an appeal against such cancellation, then the trade union or organisation, any officer thereof, and any person acting as an official thereof, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two hundred thousand shillings in default of which shall be imprisoned for a term not exceeding three months.

PART IV
CONSTITUTION AND GOVERNANCE

Legal Status.

25.(1) Any trade union or organisation which is registered under this Act shall be a body corporate having perpetual succession and a common seal and all the rights including capacity to contract and to hold property, and to sue and be sued.

(2) For the purpose of this Act the legal status of a trade union or organisation shall come into existence on the date of registration thereof.

Liability of Members.

26. Liability of member of a trade union or organisation shall not exceed:

- (a) the amount payable as subscription which is in arrears at the date of dissolution or winding up;
- (b) the amount payable as pledge, commitment, contribution, guarantee, grant or undertaking made in writing by a member.

Membership.

27.(1) No person shall be eligible to be a member of a trade union or organisation unless he or she resides or has lawful permit to reside in Tanzania and -

- (a) is bonafide engaged in a trade or occupation which the trade union purports to represent, whether full time or part time or whether on a permanent or temporary basis; or
- (b) in the case of a person not so engaged –
 - (i) has been so engaged at any time for periods amounting in the aggregate to not less than eighteen (18) months; or

- (ii) has been elected to office, subject to the provision of this Act;
- (iii) is actively seeking employment in such trade or occupation.

(2) No employer shall be eligible to be a member of an employer's organisation unless the employer is engaged in a trade, occupation or business in Zanzibar and engages employees for employment in Zanzibar, Tanzania Mainland or abroad for the purposes of such trade, occupation or business.

(3) Any person of the age of seventeen years and above may be a member of trade union unless the constitution thereof provides to the contrary.

(4) Notwithstanding the provision of subsection (3) of this section a minor shall not be a member of the executive committee of a trade union.

(5) Where under the provision of any law it is unlawful for a person to be engaged as employee or to engage as employer no such person may be member of respective trade union or organisation.

Constitution.

28.(1) The constitution of every trade union or organisation shall provide for all the matters specified in the Schedule, and shall not be so altered or amended as to cease to contain provision in respect of all such matters.

(2) A copy of every new constitution and of every alteration made in the constitution of a trade union or organisation shall be sent to the Registrar within one month of the making of such constitution or alteration and shall be registered by the Registrar upon payment of the prescribed fee.

(3) Every alteration of the constitution of a trade union or organisation shall take effect from the date of registration thereof by the Registrar unless some later date is specified in the constitution.

Registered Office.

29.(1) Every trade union or organisation shall have a registered office and registered postal address, to which all communications and notices may be addressed and if any trade union has more than one office the registered office shall be the principal office of such trade union or organisation.

(2) Notice of the situation of such registered office and registered postal address, and of any change therein, shall be given to the Registrar and shall be registered by him or her, and the trade union or organisation shall not be deemed to have complied with the provisions of this Act until such notice has been given.

(3) If any trade union or organisation -

- (a) operates without having a registered office and registered postal address, or without giving notice of the situation of its registered office as hereinbefore required; or
- (b) operates at any place to which its registered office may have been removed, without having given notice of the change in the situation thereof to the Registrar; or
- (c) fails to give notice of any change of its postal address; then such trade union or organisation and every official thereof shall be guilty of an offence and shall be liable to a fine not exceeding twenty thousand shillings for every day during which such trade union so operates in default of which shall be imprisoned for a term not exceeding three months.

Branches and
Affiliation.

30.(1) Notice in writing containing such particulars as may be prescribed shall be given to the Registrar by every registered trade union or organisation which has after the commencement of this Act become affiliated to any other trade union, within three months of such affiliation.

(2) Notice in writing containing such particulars as may be prescribed shall be given to the Registrar of the establishment after the commencement of this Act of any branch of a registered trade union or organisation within three months of the establishment of such branch.

(3) The secretary of any trade union or organisation which fails to comply with any of the requirements of this section shall be guilty of an offence and shall be liable to a fine of not less than two hundred thousand shillings in default of which shall be imprisoned for a term of not less than three months.

Amalgamation.

31.(1) Any two or more registered trade unions or organisations may become amalgamated together as one trade union or organisation with or without dissolution or division of the funds of such trade unions or organisation or either or any of them.

(2) The decision to amalgamate under subsection (1) of this section shall be valid if :

- (a) a secret ballot in respect of the proposal to amalgamate is taken in a fair manner by at least fifty percent of the members who are not disqualified from voting by this Act or by the Constitution of the trade union or organisation; and
- (b) the votes recorded in favour of the proposal exceed the votes recorded against the proposal by twenty percent or more of the total votes recorded.

Federation
of Tanzania
trade union.

(3) No registered trade union and no organisation shall after the commencement of this Act amalgamate with any trade union or organisation other than a registered trade union or organisation as the case may be.

32.(1) Notwithstanding any provision under this Act or under any other law a federation registered under this Act may join together with a federation of the same nature registered under the law applicable in Tanzania Mainland and form a union in whatever name or designation.

(2) A federation formed under subsection (1) of this section shall apply for registration under this Act and shall be subject to the provisions of this Act in all respects.

(3) Where such a federation is also registered under the laws applicable in Tanzania Mainland it shall not be deemed to be a separate entity by reason of being registered under two separate laws.

(4) Where a federation so formed and registered is cancelled, dissolved or by any reason its registration ceases under this Act, it shall be unlawful for any federation or confederation registered under this Act to continue to be a member or participate in the affairs of such federation whether registration of the federation continues to exist under the laws applicable in Tanzania Mainland or not.

(5) Notwithstanding the provision of subsection (4) of this section it shall not be unlawful to take part in any proceeding or activity of the said federation for the purpose of claiming any due, right or entitlement from the federation or for disposal of funds or property of the federation.

Notice of
change of
name,
amalgamation
or federation.

(6) Any federation or officers of confederation thereof who contravenes the provisions of subsection (4) of this section shall be guilty of an offence and shall, upon conviction be liable to a fine not exceeding one hundred thousand shillings.

33.(1) Notice in writing containing such particulars as may be prescribed shall be given to the Registrar of every change of name effected after the commencement of this Act signed by the secretary and at least two members of the trade union or organisation in the case of a combination of employees, and such notice shall be given within one month of the change of name.

(2) If the proposed name is identical with that by which any other existing trade union or organisation has been registered or, in the opinion of the Registrar so nearly resembles such name as to be likely to deceive the public or the members of either trade union or, in his or her opinion, is itself misleading, the Registrar shall refuse to register the change of name.

(3) Save as provided in subsection (2) of this section the Registrar shall, if he or she is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the prescribed manner, and the change of name shall have effect from the date of such registration.

(4) Notice in writing containing such particulars as may be prescribed shall be given to the Registrar of every amalgamation and federation effected after the coming into force of the Act, signed by the secretary and at least six members of each registered trade union which is a party thereto except where such trade union is a combination of employers in which case such notice shall be signed by the secretary and at least two members, and such notice shall be given within one month of such amalgamation or federation.

(5) If the Registrar is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that

the trade union formed thereby would be entitled to be registered under this Act he or she shall register the trade union in the prescribed manner and the amalgamation shall have effect from the date of such registration.

(6) If the Registrar is satisfied that the provisions of this Act in respect of federation have been complied with and that the combination formed thereby is a trade union within the meaning of this Act and that such trade union is entitled to be registered under this Act, he or she shall register the trade union in the prescribed manner and the federation shall have effect from the date of such registration.

(7) If the combination formed by such federation is not a trade union within the meaning of this Act it shall have effect from the time when such federation took place.

(8) Any person aggrieved by the refusal of the Registrar to register either a change of name of a registered trade union or the trade union formed by the amalgamation or federation of any two or more registered trade unions, may appeal against such refusal in the manner provided by section 23 of this Act.

Effect of
change of
name,
amalgamation
or federation.

34.(1) A change in the name of a trade union or organisation shall not affect any right or obligation of such trade union or organisation or render defective any legal proceeding by or against such trade union or organisation, and any legal proceeding which might have been continued or commenced by or against it under its former name may be continued or commenced by or against it under its new name.

(2) An amalgamation or federation of two or more registered trade unions or association shall not prejudice any right of either or any of such trade unions or organisation or any right of a creditor of either or any of them.

Meeting of trade union.

35.(1) Every trade union or organisation shall in its Constitution provide for holding of annual general meeting.

(2) For avoidance of doubt it is expressly provided that annual general meeting need not involve all members of a trade union or organisation as long as interests of the members are fairly represented.

(3) It shall be lawful for the Constitution of a trade union or organisation to provide for constituent representation or other forms of fair representation in the annual general meeting.

Dissolution and notification.

36.(1) A trade union or organisation may be dissolved where a resolution for its dissolution in accordance with its constitution is approved at a general meeting of the trade union or organisation.

(2) Notice of all changes of officials shall within one month after such change be sent to the Registrar by the trade union or organisation, together with the prescribed fee and the Registrar shall thereupon enter in the register accordingly.

(3) Where on the dissolution of a trade union or organisation the Registrar is of the opinion that disposal of its funds and other property is not likely to be properly conducted he or she may apply to the Court which may order to empower the Registrar to dispose of such funds or property and upon such order he or she shall have all the powers of a liquidator.

Declaration of assets and claims.

37. Every officer or member of a dissolved union or organisation who is in possession of any asset of the dissolved union shall return the same to the liquidator of the union within 30 days of his or her appointment.

(2) Every debtor of a dissolved trade union for the amount, in cash or otherwise, exceeding ten thousand shillings

shall inform the liquidator of such claim within 30 days of his or her appointment.

Notification in the gazette.

38.(1) The Registrar shall notify the following facts in the Gazette -

- (a) the fact that any trade union or organisation has been registered or that registration has been refused;
- (b) the fact that the registration of any trade union or organisation has been cancelled;
- (c) the fact that a change of name or amalgamation affecting any registered trade union or organisation has been registered;
- (d) the fact that any registered trade union or organisation has been dissolved.

(2) Registration, refusal of registration, cancellation of registration, change of name or amalgamation or dissolution shall be valid notwithstanding that notification has not been made by the Registrar as required under this section.

PART V

PROPERTY, FUNDS AND ACCOUNTS

Property and liability.

39.(1) The property of a trade union or organisation shall be managed in accordance with the constitution of a trade union or organisation and may be vested in the trustees for the use and benefit of the trade union or organisation.

(2) The liability of a trade union or organisation at the time of winding up or dissolution shall, unless otherwise agreed in writing by a trade union or organisation, not exceed the net value of its assets.

Disposal of property.

40.(1) Disposal, pledging or mortgaging of immovable property belonging to a trade union or organisation shall require the approval of a majority members present and voting at a meeting of the trade union or organisation.

(2) Disposal or pledging of movable property belonging to a trade union or organisation shall require the approval of the executive committee of the trade union or organisation.

(3) Without prejudice to section 41 of this Act investment of funds of a trade union shall be made in accordance with the constitution of a trade union or organisation.

Applications of funds.

41.(1) The provisions of this section and section 42 shall not apply to an organisation.

(2) The funds of a trade union, may, subject to the constitution thereof and to the provisions of this Act be expended for the following objects -

- (a) the payment of salaries, allowances and expenses to officials of the trade union;
- (b) the payment of expenses for the administration of the trade union, including audit of the accounts of the funds of the trade union;
- (c) the prosecution or defence of any legal proceeding to which the trade union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the trade union;
- (d) legal advice for the purpose of securing or protecting any rights of the trade union as such or any rights arising out of the relations of any member with his

employer or with a person whom the member employs, or any rights of any member or his dependants arising out of a civil cause;

- (e) the conduct of trade disputes on behalf of the trade union or any member thereof;
- (f) the compensation of members for loss arising out of trade disputes;
- (g) allowances to members in distress through circumstances beyond their control;
- (h) the purchase or lease of any building or land required for the purposes of the trade union, and for the rent, upkeep and furnishing thereof;
- (i) federation or affiliation fees or contributions;
- (j) contributions to a charitable, educational or cultural institution or society approved by the Registrar;
- (k) interest on loans, income and other legally imposed taxes.

(3) Application of funds of a trade union for purposes other than those specified under subsection (2) of this section may be made on the following conditions:

- (a) the purpose for which funds is to be applied be in conformity with the constitution, and objects of a trade union;
- (b) must be approved by the executive committee or trustees if any;

- (c) an account of such expenditure be laid before the next general meeting of a trade union.

Prohibition of payment of fines.

42.(1) The funds of a trade union shall not be applied either directly or indirectly in payment of the whole or any part of any fine or penalty imposed upon any person by sentence or order of a Court, other than a fine or penalty imposed upon the union under this Act.

(2) An injunction restraining any unauthorised or unlawful expenditure of the funds of a trade union may be granted on the application of not less than quarter of all members having a sufficient interest in the relief sought or of the Registrar, and in granting any such injunction the Court, in the case of the dissolution of any trade union upon the cancellation of its registration, may order that the funds of that trade union be paid over to the Registrar for disposal in accordance with the constitution of that trade union.

Books to be kept.

43. The officials of every registered trade union or organisation shall cause to be kept such books of account as shall be sufficient to exhibit and explain the transactions and financial position of the union, including a book or books containing entries made from day to day in sufficient detail of all cash received and cash paid by or to the union.

Accounts.

44.(1) Every treasurer of a trade union or organisation and every other official thereof who is responsible for the accounts of the union or for the collection, disbursement, custody or control of the funds or moneys thereof shall, upon resigning or vacating his or her office and at least once a year as at the 31st day of December and at any other times at which he or she may be required to do so by a resolution of the members of the union or organisation by the constitution thereof or by the Registrar, render to the union and its members or the Registrar as the case may be, a just and true account of all moneys received and paid by him or her during the period which has elapsed since the date of his or her assuming office or, if he has previously rendered an account,

since the last date on which he or she rendered such account, and of the balance remaining in his or her hands at the time of rendering such account and of all bonds, securities or other property of the trade union entrusted to his or her custody or under his control.

(2) The form of account to be rendered under subsection (1) of this section may be prescribed by regulations.

(3) A trade union or organisation shall cause the account to be audited by some fit and proper registered auditor approved by the Executive Committee of the union or organisation, and the audit of the annual accounts as at the 31st day of December shall be completed before the 31st day of March in the following year.

Annual returns.

45.(1) The treasurer of every registered trade union or organisation shall furnish annually to the Registrar on or before the 31st day of March a general statement audited in the prescribed manner of all receipts and expenditure during the period of twelve months ending on the 31st day of December of the preceding year, and of the assets and liabilities of the trade union or organisation as at such 31st day of December.

(2) The statement shall be accompanied by a copy of the auditor's report and shall be prepared in such form and shall comprise such particulars as may be prescribed.

(3) The treasurer of every registered trade union or organisation shall furnish annually to the Registrar on or before the 28th day of February a statement of membership showing the number of members of such trade union or organisation on the 31st day of December of the preceding year, and the state of their contributions.

(4) Every member of a trade union or organisation to which this section applies shall upon payment of prescribed fees be

entitled to receive a copy of the general statement referred to in subsection (2) of this section and the secretary of each such trade union or organisation shall deliver a copy of such statement to every member of his or her union who makes application to him or her therefor.

(5) The treasurer of any trade union or organisation to which this section applies who fails to comply with any of the requirements of this section shall be liable to a fine of not less than fifty thousand shillings.

(6) Every person who wilfully and knowingly makes or orders or causes or procures to be made any false entry in or omission from any general statement, copy or list delivered to the Registrar under subsections (1), (2) or (3) shall be guilty of an offence and shall be liable to a fine not less than fifty thousand shillings in default of which shall be imprisoned for a term not exceeding three months.

Power of
Registrar.

46.(1) The Registrar or any person authorised by a general or special order in writing by him or her shall upon receiving official complaint from members of a trade union or upon reasonable grounds to inspect financial records of a trade union at all reasonable times have access to all records of financial transactions of a trade union or organisation and shall be entitled to inspect the cash in hand held by it; and every officer or member of the trade union shall furnish such financial information in regard to the transactions and working of the trade union or organisation as the person making such inspection may require.

(2) Any person who opposes, obstructs or impedes the Registrar or any person authorised by him or her under section 45 of this Act in the carrying out of an inspection or an inquiry under the provisions of that section, shall be guilty of an offence and shall be liable to a fine not less than two hundred thousand shillings in default of which shall be imprisoned for a term not exceeding three months.

Injunction.

47. Not less than quarter of the members of a trade union or organisation or the Registrar may apply to the Court for an injunction prohibiting an official of such trade union or organisation from holding office or controlling trade union or organisation funds, and the magistrate if he or she is satisfied that there is a prima facie case against such official for the fraudulent misuse of the trade union's funds, or that such official is disqualified from holding office in a trade union, may make such injunction.

Service of legal process.

48. Every summons, notice or other document required to be served on a trade union or association in any civil or criminal proceedings shall be served on the chairman or the treasurer or the secretary or any official of the trade union or organisation or in default of such personal service it shall be sufficient if it is delivered at the registered office of the trade union or association or posted to its registered postal address.

Regulations for Part I to VI.

49.(1) The Minister may make Regulations for the purposes of carrying out or giving effect to the principles and provisions of the Part I to Part VI of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1) of this section the Minister may make regulations for or in respect of all or any of the following matters -

- (i) all matters stated or required in this Act to be prescribed;
- (ii) the books and registers to be kept for the purposes of this Act and the forms thereof;
- (iii) the manner in which trade unions and organisation and the constitutions of trade unions and organisations shall be registered;

- (iv) the manner in which, and the qualifications of persons by whom the accounts of registered trade unions shall be audited;
- (v) the conditions subject to which inspections of documents kept by the Registrar shall be allowed;
- (vi) the due disposal and safe custody of the funds and moneys of a trade union;
- (vii) the creation, administration, protection, control and disposal of the benevolent funds of registered trade unions and organisations and all matters connected therewith or incidental thereto;
- (viii) the fees to be charged for registration and inspection and any other service or matter prescribed or permitted by this Act;
- (ix) generally for all matters incidental to or connected with the matters or subjects specifically mentioned in this subsection.

PART VI
ORGANIZATIONAL RIGHTS

Trade union
access to
work place.

50.(1) Every employer is required to permit the activities of trade union at the work place.

(2) A trade union may conduct the following activities at the place of work -

- (a) to establish branches of trade unions;

(b) to conduct lawful meetings of branch members including elections.

(3) Any office bearer or official of a trade union is, upon reasonable notice to employer, entitled to enter the premises of a work place in order to recruit members or communicate with members or otherwise to serve members' interests.

(4) A representative trade union shall, in addition to other functions, perform the following functions at a place of work -

(a) to make representation on behalf of employees in respect of rules, health, safety and welfare;

(b) to consult on productivity in the workplace;

(c) to represent trade unions in enquiries and investigations conducted by inspectors in terms of any labour law;

(d) to monitor compliance of labour laws;

(e) to further good relations between employer and employers;

(f) to perform any other function agreed by the employer.

(5) The rights conferred by this section are subject to applicable conditions as to time, place and manner that are necessary and reasonable to safeguard safety, life, property or to prevent undue disruption of work.

(6) The rights conferred under this section in so far as they apply to domestic sector shall not include the right to enter the home of the employer, unless the employer agrees.

Deduction of trade union subscription.

51.(1) Any employee who is a member of a trade union may authorise the employer in writing to deduct subscriptions or other levies payable to the trade union from the employee's wages.

(2) An employer who receives authorisation as prescribed under subsection (1) of this section shall make deduction as soon as possible and shall remit the amount deducted to the trade union as soon as possible but in any case before next salary payment is due.

(3) An employee may revoke authorisation given under subsection (1) of this section by giving three months written notice to employer and trade union and the employer shall cease to make deduction after making three months' deduction following notice of revocation of authorisation.

(4) An employer shall not charge administrative fees or charges for deductions made by such employer unless otherwise agreed under collective agreements.

Agency shop agreement.

52.(1) A representative trade union and an employer may enter into a collective agreement to be known as an agency shop agreement, requiring the employer to deduct an agreed agency fee or levy from the wages of employees identified in the agreement who are not members of the trade union but are eligible for membership thereof.

(2) An agency shop agreement is valid only if -

(a) more than fifty percent of the employees of a respective bargaining unit are members of a trade union represented in the agreement;

(b) the agreement does not expressly compel employees who are not members to become members.

(3) The agency fee must be equivalent to or less than a subscription payable by members of the representative trade union.

Provided that where more than one trade unions are represented the subscription of representative trade union shall apply.

(4) The amount deducted as agency fee must be paid into a separate bank account to be administered in accordance with the agreement.

(5) No amount raised from agency fee shall be spent in furtherance of any non-union purposes.

(6) Agency shop agreement may only be objected on the ground of illegality or discrimination.

(7) The Court may, on application by any employee interested in the agency shop agreement impose certain restriction for the purpose of making the agreement fair or application of agency fee compatible with the trade union purposes.

(8) The Court may order cancellation of the agreement for failure to comply with the restriction imposed by the Court.

Leave for trade union activities.

53.(1) An employee who is an office bearer of a representative trade union or organisation or a federation of trade union to which the representative trade union is affiliated is entitled to take reasonable leave during working hours for the purpose of performing the functions of that office.

(2) The representative trade union and the employer may agree on the number of days or hours and other conditions

attached to such leave.

(3) Notwithstanding the conditions that may be attached under subsection (2) of this section the time required for meetings, negotiation and consultation with the employer shall be deemed to be a paid leave.

(4) An employee shall give reasonable notice to an employer before exercising the rights conferred under this section.

(5) For the purpose of this Part, representative trade union means a trade union recognised as such under section 57 of this Act.

PART VII
COLLECTIVE BARGAINING AND
COLLECTIVE AGREEMENTS

Right to bargaining collectively.

54.(1) Right to collective bargaining shall apply to all employees not excluded under this Act.

(2) The following categories of employees are excluded from the application of the right to bargain collectively;

- (a) public officers who are actually engaged in the administration of government affairs. The Minister may, in consultation with Labour Advisory Board, by notice in the gazette specify such public officers;
- (b) senior employees who are actually in the management of the affairs of the employee;
- (c) any other category that the Minister may, in consultation with the Labour Advisory Board, by notice in the gazette exclude.

Bargaining
subject.

55. An employer or employers or employers' organisation may subject to the provisions of this Act enter into collective agreement with one or more trade unions on any of the following matters :

- (a) determining work conditions and terms of employment;
- (b) regulating relations between employers and employees;
- (c) regulating relations between employers or their organisations and trade unions;
- (d) regulating or determining any matter permitted to be regulated or determined by collective agreement under the employment law, this Act or any other laws;
- (e) regulating or determining any matter which the parties to collective agreement may deem necessary.

Levels of
bargaining.

56.(1) Collective bargaining may take place at any of the following levels -

- (a) enterprise level;
- (b) industry or sector level;
- (c) national level.

(2) An employer or employers' organisation and trade union or unions shall determine level of bargaining for each individual case or may generally agree on levels of bargaining through collective agreement.

Representative trade union.

57.(1) A representative trade union shall have an exclusive right to bargain with the employer.

(2) A representative trade union for the purpose of this Part means a registered trade union that represents the majority of employees at appropriate bargaining level and recognised as such under this section.

(3) A trade union that seeks to be recognised as a representative trade union shall raise the issue with the employer.

(4) Where the employer does not recognise the trade union as a representative trade union or if there is any objection raised by another trade union the trade union that seeks the representative status shall refer the matter to the disputes resolution authority for determination.

Disclosure of information.

58.(1) Subject to the terms of this Act, where an employer is bargaining with a representative trade union the employer shall disclose to the representative trade union all relevant information that will allow the representative trade union to engage effectively in collective bargaining.

(2) An employer is not required to disclose information -

(a) that is legally privileged or whose disclosure is prohibited by any law or by a Court order;

(b) that is confidential and, if disclosed, may cause substantial harm to an employee or the employer;

(c) that is private or personal information relating to any person unless such person consents to the disclosure of such information.

(3) Any dispute relating to the type of information to be disclosed shall be referred to the Court by a party seeking disclosure of such information.

Duty to bargain in good faith.

59.(1) An employer or employers and trade unions shall have the duty to bargain in good faith.

(2) For the purpose of this section bargaining in good faith shall include the following -

- (a) to make every effort to reach an agreement;
- (b) to engage in genuine and constructive negotiation;
- (c) to the best of their effort, to avoid unjustified delays.

Binding nature of collective agreements.

60.(1) A collective agreement between trade union and single employer is binding between the employer and employees who are members of the trade union in the bargaining unit or are represented in the agreement by such trade union in that particular bargaining unit.

(2) Unless otherwise expressly provided in the collective agreement employees in the bargaining unit who are not members of the trade union which is a party to the collective agreement shall be deemed to be represented where the majority of employees at the bargaining unit are members of the trade union.

(3) A collective agreement between trade union or unions and multi-employers or employers' organisation is binding to all members of such entities and to all other employees who,

under the provision of subsection (2) of this section, are deemed to be represented by trade unions which are party to the agreement.

(4) In any other case which does not fall under subsection (1) or (2) of this section a collective agreement is not binding to any party who is not expressly identified in the agreement.

(5) A collective agreement shall remain binding for the whole period of the collective agreement to every person bound in terms of subsections (1), (2), (3) and (4) and to any person who becomes a member or represented after the agreement become binding.

(6) Unless the collective agreement provides otherwise, any party to a collective agreement that is concluded for an indefinite period may terminate the agreement by giving reasonable notice in writing to the other parties.

Registration
of collective
agreements.

61.(1) All collective agreements shall be submitted to the Court and a copy to the Commission by any of the parties thereto for registration.

(2) The Court shall keep a register of collective agreements in the manner prescribed by the Minister in the regulation.

(3) Where a collective agreement is submitted to the Court under the provisions of subsection (1) of this section, the Court shall examine such agreement and any report of the Commissioner accompanying the agreement relating to the agreement and shall proceed to decide whether or not to register the agreement.

(4) The Court may, where a collective agreement is referred to it -

- (a) register the agreement without any modification;
- (b) register the agreement after making such modifications thereto as the parties to the agreement may consent to; or
- (c) refuse to register the agreement in accordance with subsection (6) of this section.

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

(6) The Court may refuse to register any collective agreement if the Court is of the opinion that -

- (a) the collective agreement may not be enforceable by reason of failure to conform with the basic requirements of such agreements or is inconsistent with any law;
- (b) the collective agreement does not conform with the minimum standards laid down by law.

(7) Where the Court refuses to register any collective agreement referred to it, the Court shall refer the matter back to the parties with appropriate instruction.

(8) Notwithstanding anything contained in this section collective agreement shall be effective from the date appointed by the parties and where any change in the agreement is made by the Court and accepted by the parties such changes shall be effective from the date appointed by the parties or where no date is appointed from the effective date of the agreement.

PART VIII
LABOUR DISPUTES

Strike ballot.

62.(1) Subject to other provision of this Act, the right to strike recognised under this Act shall duly be exercised upon proper secret ballot being called in accordance with the rules of a trade union.

(2) In the absence of rules of trade union on strike ballot the ballot shall be conducted in transparent and fair manner.

(3) Any member of a trade union which is contemplating a strike may apply to Court to nullify a strike ballot on grounds of fraud, non-observance of rules or unfairness.

(4) The Court may give a restraining order pending the determination of application made under subsection (3) of this section.

Right to strike.

63.(1) Subject to the provisions of this Act, every employee has the right to strike and every employer has recourse to lock-out.

(2) The right to strike and recourse to lock-out may only be exercised if -

- (a) the dispute is of interest and not of right;
- (b) the issue in dispute has been referred to Court and such dispute resolution procedure is exhausted; and
 - (i) an order is granted by the dispute resolution authority that the dispute remains unsolved;
 - (ii) a period of 30 days or such period as may be

extended by the parties to the dispute has expired since the order was made.

- (c) in the case of strike at least 48 hours prior written notice of the commencement of the strike is given to the employer or employers' organisation if such organisation is party to the dispute;
- (d) in the case of a lock-out at least 48 hours prior written notice is given to a trade union that is a party to the dispute or, if there is no such trade union, to the employees;
- (e) in the case of a proposed strike or lock-out where the Government is the employer, at least seven days' written notice is given to the parties to the dispute.

(3) Any strike or lock-out conducted in accordance with the provisions of this Act shall be lawful and any strike or lock-out conducted in contravention of this Act shall be unlawful.

(4) No strike or lock-out that is unlawful shall be permitted and the government and the aggrieved party shall take all necessary measure to prevent the same.

(5) It shall be unlawful to lock the management out as means of furtherance of labour dispute.

Limitation on right to strike or recourse to lock-out.

64.(1) No person shall take part in a strike or in any conduct in contemplation or furtherance of a strike if -

- (a) is an employee of any public authority who is actually engaged in the management of such authority;
- (b) is an employee who is actually engaged in the management of a business of the employer for which such employee is engaged;

- (c) is an employee in any essential service or in the provision of minimum service as defined under this Act.
- (2) For the purpose of this section essential services are :
 - (a) water and sanitation;
 - (b) electricity;
 - (c) health services and its associated services;
 - (d) air traffic control and civil aviation telecommunication and other navigational communication;
 - (e) fire services;
 - (f) transport services necessary for the operation of the foregoing services to be essential service.
- (3) No person shall take part in a strike or any conduct in contemplation or furtherance of a strike if-
 - (a) the dispute relates to the issue contained in a current collective bargaining agreement;
 - (b) there exists state of emergency either generally or in respect of a particular industry and that state of emergency is officially declared.

Restraining
unlawful strike
and lock-out.

65.(1) The Court may grant an injunction or order restraining any person from participating in any unlawful strike or lock-out or in any conduct in contemplation or in furtherance of an unlawful strike or unlawful lock-out.

(2) The Court may order the payment of reasonable and equitable compensation for any loss attributable to unlawful strike or lock-out.

Protection for lawful strike.

66.(1) Any employee who participate in a lawful strike or in any conduct in contemplation or in furtherance of a lawful strike to which such employee is entitled to participate shall not be deemed to have breached an employment contract and no civil or criminal liability shall lie against the employee participating a lawful strike.

(2) Notwithstanding the provisions of subsection (1) of this section the employer is not obliged to remunerate an employee for services that the employee does not render during a lawful strike.

(3) If remuneration is in kind in respect of basic amenities of life the employer, unless otherwise agreed in a collective agreement, shall not discontinue such payment in kind during the strike or lock-out but such employer shall be entitled to recover the monetary value of the payment in kind made during the strike or lock-out.

Secondary strike.

67.(1) No person shall take part in a secondary strike unless -

- (a) the strike that is to be supported is lawful;
- (b) the employer of the employees taking part in the secondary strike has received written notice of the proposed secondary strike at least seven days prior to its commencement;
- (c) the secondary strike is reasonable in terms of its justification and impact to the primary employer.

(2) The Court may grant an injunction or order restraining or prohibiting any person from participating in a

secondary strike if the Court is of the opinion that the secondary strike contravenes this Act or is unjustified.

Replacement labour.

68.(1) An employer shall not engage temporary employment service whether directly or by way of independent contractor during a strike except in a manner provided in the regulation made under subsection (3) of this section.

(2) An employer shall not engage temporary employment service whether directly or by way of independent contractor for the purpose of performing the work of any employee who is locked-out unless the lock-out is in response to a strike.

(3) The Minister shall in consultation with Labour Advisory Board make regulation to provide for the manner in which temporary replacement labour may be engaged during a strike for provision of maintenance service and other necessary service.

Protest action.

69.(1) Every employee who is not engaged in an essential service or other necessary service stipulated by regulation made under section 99(1) of this Act, has the right to take part in a protest action if -

- (a) protest action is lawful and has been called by a registered trade union or federation of trade unions;
- (b) the trade union or federation of trade union that has called such protest action has complied with the provision of this Act.

(2) A protest action shall be lawful if -

- (a) it complies with the provision of subsection (1) of this section;
- (b) before a protest action is taken the matter in dispute

is referred to mediation and a mediation authority is given at least thirty days to resolve it;

- (c) no settlement is reached after the expiry of a period set for mediation the trade union has given 14 days written notice explaining the purpose, the nature of a protest action and a place and date to be conducted.

(3) Unless the employer and the trade union agree on the nature and the extent of a protest action, the mediation authority shall fix the conditions of a protest action.

(4) For the purpose of protection of employment and remuneration of employee protest action shall be treated in the same manner as strike.

Picketing.

70.(1) It shall be lawful for a registered trade union to authorise a picket by its members and employees it represents for the purpose of peacefully demonstrating -

- (a) in support of any lawful strike; or
- (b) in persuading any employee who is not taking part in a strike to support a strike;
- (c) in opposition to any lawful lock-out.

(2) A picket authorised under subsection (1) of this section may be held -

- (a) in any place to which the public has access but outside the employer's premises; or
- (b) with the permission of employer inside the employer's premises.

Intimidation or annoyance.

71.(1) Every person who, with a view to compelling any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority -

- (a) uses violence to or intimidates such other person or his/her spouses or children or injures his or her property; or
- (b) persistently follows such other person about from place to place; or
- (c) hides any tools, clothes or other property owned or used by such other person or deprives him or her of or hinders him or her in the use thereof; or
- (d) watches or besets the house or other place where such person resides or works or carries on business or happens to be or the approach to such house or place; or
- (e) follows such other person in a disorderly manner in or through any street or road;

shall be guilty of an offence and shall be liable to a fine of one hundred thousand shillings or to imprisonment for a term of not exceeding three months.

(2) Any group of persons attending at or near any house or place in such numbers or in such manner as is by paragraph (b) of subsection (1) of this section declared to be unlawful shall be deemed to be a watching and besetting of that house or place within the meaning of this section.

PART IX
DISPUTE PREVENTION AND RESOLUTION

Establishment
of dispute
handling unit.

72.(1) There is hereby established a special Unit under the Commission to deal with all labour disputes referred to the Commission under the provision of this part.

(2) The Commissioner shall appoint an officer in charge of the Unit and shall assign such number of staff and resources required for appropriate functioning of the Unit. The Commissioner may also designate any labour officer to be an officer of the Unit for the purpose of handling disputes.

(3) The Unit shall maintain its independent records, registers and registry.

(4) The Commissioner shall generally oversee the work of the Unit but shall not interfere in the conduct of its duties and shall from time to time inform the regular users of the Unit of its officer in-charge and other relevant information.

Filing of
disputes.

73.(1) Subject to the provisions of this Act, any labour dispute whether existing or apprehended shall be at first instance be filed before the Unit in a prescribed form.

(2) The Unit shall deal with the filing of dispute, notification of parties, summons, fixing of proceedings and other matter necessary for handling of such dispute in a manner provided by regulation.

Mediation.

74.(1) A dispute filed under section 73 of this Act shall be referred to a mediator appointed from an agreed panel of mediators.

(2) The mediator shall attempt to mediate the dispute

within 30 working days a period which may be extended by the agreement of the parties.

(3) Where a mediator settles the dispute terms of settlement must be in writing and signed by the parties and the mediator.

(4) Where the dispute is not settled the mediator shall issue a certificate of unresolved dispute.

Arbitration and other recourse in respect of unresolved disputes.

75.(1) Where a certificate of unresolved dispute is issued by the mediator except in special circumstance parties to the dispute shall have the following recourse:

- (a) if it is a dispute of interest in an essential service such dispute shall within 14 days be referred to compulsory arbitration; or
- (b) any other dispute of interest may be referred to arbitration if the parties agree to do so. The parties may refer such dispute to arbitrators of their own choice or to arbitrators drawn from the panel of arbitrators established by the Unit.
- (c) where the dispute is not referred to arbitration resort to lawful industrial action may be preferred.

(2) Where a certificate of unresolved dispute is issued in respect of dispute of right the parties may have the following recourse -

- (a) a dispute may be referred to compulsory arbitration if it is a dispute on any matter prescribed by regulation as a matter that requires compulsory arbitration;
- (b) any other dispute may be referred to arbitration on agreement of the parties and the arbitrators may be

appointed by the parties or drawn from a panel of arbitrators established by the Unit;

(c) in any other case, the dispute may be referred to the Court for adjudication.

(3) Notwithstanding the provisions of subsection (1) and (2) of this section where the dispute involves the interpretation of constitution or is wholly or solely on interpretation of any law such dispute may referred to the Court in the first instance.

(4) Fees payable by the parties for arbitration and mediation shall be fixed by the Minister after consultation with the Labour Advisory Board.

(5) Remuneration for arbitrators and mediators shall be paid by the Commission at the rate fixed by the Minister in consultation with the Labour Advisory Board.

Assistance by
Court in mediation
and arbitration.

76.(1) The Court may refer any dispute before it to arbitration and may appoint such arbitrator or leave it to the parties to appoint the same.

(2) The Court, on application made by a party to a dispute which is pending before mediation or arbitration or by the mediator or arbitrators to the dispute, may grant an injunction or such other restraining order as are necessary for proper disposal of the dispute.

(3) Any mediator or arbitrator may refer any issue or point of law to Court for interpretation and such interpretation by the Court shall be binding.

(4) The Court may review any arbitration award or may remit the award for consideration of the arbitrators.

Proceedings
in special
circumstances.

(5) The Court shall on application of mediator or arbitrator assist mediator and arbitrators by issuing necessary order and directives to the parties or any person or authority in accordance with Part XI of this Act.

(6) The provisions of the Arbitration Decree, Chapter 25 shall not apply to arbitration conducted under this Act except for the purpose of enforcement of the award.

77.(1) If an initiating party in a dispute fails to attend a hearing, the period for mediation may be extended by a further thirty days reckoned from the date of the hearing.

(2) If the respondent party in dispute fails to attend a mediation hearing, the mediator may issue a certificate of unresolved dispute permitting the initiating party to give notice to commence industrial action.

(3) If an initiating party fails to attend a mediation or arbitration hearing, the mediator or the arbitrator may dismiss the matter.

(4) If a respondent party fails to attend a mediation or arbitration hearing, the mediator or arbitrator may grant default judgement.

(5) Where ex-parte order or default judgement is made, the party against whom the order or judgement is made may apply before the Court for rescission of such order or judgement and the Court may on good cause being shown by the applicant rescind the order or judgement and order re-hearing of the matter in accordance with the procedure.

Tripartite committee.

78.(1) The Minister shall in consultation with the Labour Advisory Board establish a Tripartite Committee.

(2) The Tripartite Committee shall perform the following functions -

- (a) to advise the Unit on the establishment of panels of arbitrators and mediators;
- (b) to develop criteria for appointment of arbitrators and mediators;
- (c) to develop the standards both professional and ethical for arbitrators and mediators;
- (d) to advise on assessors to sit as members of the Court;
- (e) to monitor the system of dispute resolution and to make submissions in order to improve the system;
- (f) to do any other function assigned to it by the Minister.

Representation in mediation arbitration.

79.(1) Representation on behalf of the parties in a mediation and arbitration shall be in a manner agreed by the parties, failure of which by order of a mediator or arbitrator.

(2) Representation in a Court proceedings shall be in a manner provided by the rules of the Court.

(3) Notwithstanding the provisions of subsection (1) and (2) of this section registered trade unions or federations and employers' organisation shall have the right to represent their members.

PART X
THE ZANZIBAR INDUSTRIAL COURT

Establishment
and Jurisdiction
of the Court.

80.(1) There is hereby established a division of the High Court to be known as the Zanzibar Industrial Court.

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

- (a) to hear and determine any labour dispute referred to it under the provisions of this Act;
- (b) to register collective agreement and voluntary agreement and to hear and determine matters related to the registration of such agreement;
- (c) to exercise such other functions and powers as are conferred upon it by this Act or as may be conferred upon it by any written law.

Composition of
the Court.

81.(1) The Court shall consist of -

- (a) a presiding judge appointed by the President from among the judges or persons qualified to be judges of the High Court after consultation with the Chief Justice;
- (b) two assessors appointed by the Chief Justice from each of the panel of assessors submitted by employers' organisation and a federation of trade unions.

Staff of
the Court.

82. There shall be such staff of the Court shall be officer in judiciary service and shall therefore be under general supervision of the Registrar of High Court and Judicial Service Commission.

Sittings of
the Court.

83.(1) The Court may sit on such occasion and at such places as the business of the Court may demand or as the presiding judge from time to time determine.

(2) For the purpose of holding proceedings in exercise of the functions of the Court under this Act, the Court shall be properly constituted if presided over by the presiding judge and two assessors.

Provided that the assessors shall be selected one from employers' and one from trade union representatives.

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

- (a) if in the course of any proceeding before the Court one or both of the assessors who were present at the commencement of the proceeding is or are for any reason absent, the presiding judge and the remaining assessor, if any, may continue and conclude the proceeding;
- (b) if for any reason at the commencement of any proceeding any of the assessors is absent, the presiding judge and the assessor present shall properly constitute the Court.

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

(5) The presiding judge shall not be bound by the opinions of the assessors but in the event of disagreement with the opinion of any of them he or she shall record the opinion of that assessor and the reasons for disagreement.

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

Functions of
the Court.

84. Where any labour dispute or other matter is referred to the Court, the Court shall proceed to inquire into such labour dispute or matter, and -

- (a) shall hear, receive and consider any submissions, arguments or evidence made, presented or tendered by or on behalf of –
 - (i) the employees concerned;
 - (ii) the trade union of which such employees may be members;
 - (iii) the employer concerned; and
 - (iv) any organisations which, in the opinion the Court, represents the interests of the employers and of which the employer concerned is a member.
- (b) may seek advice or consult in such manner as it may think appropriate from any public officer, public department, body corporate or institution of Government on financial and economic policies.

Award may be
retrospective.

85. Any award or collective agreement concerning a labour dispute which is made or effected by a mediator or arbitrator or the Court may be made retrospective.

Interpretation of awards.

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

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

Appeals against decisions of the Court.

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

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

Rules of evidence not binding in the Court.

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

(a) to furnish, in writing or otherwise, such particulars in relation to any mater as may be required; or

- (b) to attend before the mediator, arbitrator or the Court and give evidence on oath or otherwise; or
- (c) to produce any document;

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

(3) Any person who, without lawful excuse as aforesaid, fails to obey any order given under the provisions of subsection (1) of this section shall be guilty of an offence and shall on conviction be liable to a fine not less than four hundred thousand shillings in default of which shall be imprisoned for a term of not exceeding three months.

Rights of parties to be represented by an Advocate.

89.(1) Any person appearing before the Court in any proceeding under this Act may have a right to appear or be assisted by advocate subject always to the provisions of any rules of the Court made by the High Court.

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

- (a) if the party absent is the complainant and is so absent for reasons which appear to the Court to be unreasonable or not good, shall dismiss the application or dispute, as the case may be; or
- (b) if the party absent is the respondents may proceed to hear and determine the dispute or matter *ex-parte*.

Protection of members of the Court, arbitrator and mediator.

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

(2) For the purpose of this section, the expression "member of the Court" means presiding judge, an assessor or an official member exercising functions under this Act.

(3) No member of the Court, mediator or arbitrator shall be summoned or required to give evidence before any Court, tribunal or in any proceedings, in respect of or in relation to any information known by the member of the Court, mediator or arbitrator in his or her such capacity.

Sitting may be public or private.

91.(1) The proceedings of the Court shall be conducted in open Court.

(2) The Court may on application of either party conduct the proceedings wholly or in part *in camera*.

Report by Court.

92. The presiding judge shall cause to be prepared and submitted to the Minister a report of the Court's operations and activities at such intervals as the Chief Justice may direct.

Contempt of Court.

93. Any person who -

(a) wilfully disobeys any lawful order, process or requirement issued by the Court;

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

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

is guilty of contempt of Court and shall on conviction be liable to imprisonment for a term not exceeding three months.

Summary
procedure
for contempt.

94.(1) When any offence under section 94 of this Act is committed in the face of the Court, the Court may cause the offender to be detained in custody and at any time before the rising of the Court on the same day may take cognisance of the offence and sentence the offender to imprisonment for a period not exceeding one month.

(2) Without prejudice to section 98 and subsection (1) of this section the Court shall have power to punish by fine or imprisonment such contempt of its authority as -

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

Sitting
allowance.

95. The assessors and official members sitting with the presiding judge in any Court proceedings shall be paid a sitting allowance of such amount as may be determined by the Chief Justice from time to time, taking into account the prevailing economic and other circumstances.

Court fees.

96. Fees payable to the Court in respect of various matters shall be in accordance to the rules made by the Chief Justice.

PART XI
MISCELLANEOUS

Prosecution
of offences.

97.(1) No prosecution shall be instituted under this Act except by, or at the instance of, or with the written consent of, the Director of Public Prosecutions.

(2) All offences under this Act shall be tried by a Regional Magistrate Court.

Offence and
penalty.

98. Any person :

- (a) who conducts the functions of a trade union or organisations in the name of any entity or organisation not being a trade union or organisation registered or seeking registration in Zanzibar;
- (b) who seeks to recruit members for a trade union or organisation not registered or seeking registration in Zanzibar;
- (c) who contravenes the provisions of sections 5(1) or 37 of this Act; shall be guilty of an offence and upon conviction shall be liable to a fine of not less than four hundred thousand shillings or to imprisonment for a term of not less than three months.

Regulations.

99. The Minister may, make regulations for better carrying out the provisions of this Act.

Repeal and saving.

100.(1) The following Acts are repealed :

- (a) the Trade Unions Act, No. 4 of 2001;
- (b) the Industrial Court Act, No. 2 of 1994.

(2) Notwithstanding the repeal of the Acts mentioned under subsection (1) of this section –

- (a) any trade union, federation of trade union and employers organisation registered under the repealed Act shall be deemed to have been registered under this Act from the date of its registration under the repealed Act;
- (b) any application for registration submitted under the repealed law shall be dealt with under the repealed law but shall be deemed to have been submitted under this Act;
- (c) any matter pending before the commencement of this Act shall be dealt with accordingly as the circumstances of such matter requires.

SCHEDULE

MATTERS FOR WHICH PROVISION MUST BE MADE IN THE CONSTITUTION OF EVERY TRADE UNION OR ORGANISATION (Under Section 28)

-
- 1. The name and full address of trade union or organisation.
 - 2.
 - (a) the principal purpose for which the trade union or organisation is to be established;
 - (b) all other purposes ancillary to the principal purposes which may be pursued by the trade union or organisation;

- (c) the purposes for which the funds of the trade union or organisation shall be applicable;
 - (d) the rates of contribution, the date when such contribution becomes payable and the conditions under which any member of the trade union or organisation may become entitled to any benefits assured thereby;
 - (e) the fines forfeitures which may be imposed on any member of the trade union or organisation.
- 3. The manner of making, altering, amending and rescinding constitution.
- 4. The appointment or election and removal of a general committee of management and of trustees, treasurers and other officials of the trade union or organisation, and for the re-election of these officials at intervals of more than three years.
- 5. The taking of decisions by ballot in respect of -
 - (i) election of officials;
 - (ii) amendment of constitution;
 - (iii) strikes or lockouts;
 - (iv) federation or affiliation;
 - (v) amalgamation or dissolution.
- 6
 - (a) The keeping of full and accurate accounts by the treasurer.
 - (b) Provision for audited accounts.

7. The keeping in a separate fund of all moneys received or paid by the trade union or organisation in respect of any contributory provident fund or pensions fund scheme.
8. The investment of the funds or their deposit in a bank and the audit of accounts at intervals not greater than one year.
9. The inspection of the books and names of members of the trade union or organisation by any person having an interest in the funds of the trade union or organisation.
10. The manner of the dissolution of the trade union or organisation and the disposal of the funds thereof available at the time of such dissolution.
11. (1) The right of every member to a reasonable opportunity to vote or to be voted to the office.
(2) The prescription of the period for which a member's subscription may be in arrear before such member loses his voting rights.
12. The duty and manner of keeping the following records:
 - (a) Minutes of Executive Committee and Annual General Meeting;
 - (b) List of Member and of branches;
 - (c) Ballot paper for at least twelve months from the date of ballot.

PASSED by the House of Representatives on 19th day of January, 2005.

(KHAMIS JUMA CHANDE)
CLERK OF THE HOUSE OF REPRESENTATIVES