

INDUSTRIAL COURT ACT

Act 68 of 1973 – 24 December 1973

ARRANGEMENT OF SECTIONS

SECTION

- | | |
|---|--|
| 1. Short title | 12. Reviewing Authority |
| 2. Interpretation | 13. Proceedings before Reviewing Authority |
| 3. Establishment of Industrial Court | 14. Suspension of execution of judgment |
| 4. Staff | 15. Proceedings by Permanent Secretary |
| 5. Informal powers | 16. Court fees, costs and judgment |
| 6. Sitting of Court | 17. Intervention by Attorney-General |
| 7. Institution and conduct of proceedings | 18. Rules |
| 8. Challenge | FIRST SCHEDULE |
| 9. Court orders | SECOND SCHEDULE |
| 10. Release pending trial | |
| 11. Appeal | |

INDUSTRIAL COURT ACT

1. Short title

This Act may be cited as the Industrial Court Act.

2. Interpretation

In this Act—

“Court” means the Industrial Court established under section 3;

“Magistrate” means a Magistrate of the Court and includes a Magistrate referred to in section 4 (2);

“Ministry” means the Ministry responsible for the subject of labour;

“Permanent Secretary” means the Permanent Secretary of the Ministry;

“Reviewing Authority” means the Court of review established under section 12.

[S. 2 amended by Act 29 of 1990.]

3. Establishment of Industrial Court

There shall be an Industrial Court with exclusive civil and criminal jurisdiction to try any matter arising out of the enactments specified in the First Schedule, or of any regulations made under those enactments, and with such other jurisdiction as may be conferred upon it by any other enactment.

4. Staff

(1) Every Magistrate and all other officers of the Court shall, for administrative purposes, be subject to the directions and control of the Chief Justice.

(2) Where the Island of Rodrigues is assigned to a Magistrate of the Intermediate Court or to a District Magistrate, the Chief Justice may direct that Magistrate to hear and determine, in Rodrigues, any matter over which the Industrial Court has exclusive jurisdiction.

[S. 4 amended by Act 29 of 1990.]

5. Informal powers

(1) (a) Any person may apply to a Magistrate for advice, guidance, or help in the settlement, out of Court, of a dispute arising, or which is likely to arise, in respect of a matter within the jurisdiction of the Court, even though no action has been entered or complaint made.

(b) The Magistrate shall freely give his advice, guidance or help to any person who applies to him under paragraph (a), and shall use his best endeavours to secure a settlement, out of Court, between the parties to an existing or likely dispute.

(c) Where the parties reach a settlement, out of Court, the terms of the settlement shall be drawn up in a memorandum which shall be signed by the Magistrate and signed or marked by the parties, and thereupon the memorandum shall have the same effect as if it were a judgment of the Court.

(2) A Magistrate may, at any time, offer his advice, guidance, or help to any person if he considers that such a course is desirable to promote good industrial relations.

6. Sitting of Court

(1) The Court shall sit in such place and at such time as the Chief Justice may direct.

(2) The Court shall be presided over by a Magistrate and shall sit in such number of divisions as the Chief Justice may direct.

7. Institution and conduct of proceedings

(1) Subject to this Act, and to any specific procedural provisions in any enactment specified in the First Schedule, all proceedings before the Court shall be instituted and conducted in the same manner as proceedings in a civil or criminal matter, as the case may be, before a District Magistrate.

(2) The law of evidence in force in Mauritius shall apply to proceedings before the Court.

(3) The language to be used in the Court shall be English, but any person may address the Court in French.

(4) Where any person who is required to give evidence satisfies the Court that he does not possess a competent knowledge of English or French, he may give his evidence in the language with which he is best acquainted.

(5) A person wishing to institute civil proceedings shall lodge, with the clerk of the Court, a plaint signed by him, his attorney or an officer of the Ministry.

(6) Service of any summons or other order of the Court may be effected by a police officer or an officer of the Ministry.

(7) Civil proceedings before the Court against a body corporate shall be validly instituted if instituted against a person who is concerned in the management of the body corporate.

8. Challenge

(1) No challenge shall be allowed against a Magistrate except on the ground of personal interest in any cause or matter brought before him or of his being related to one of the parties in the suit by blood or marriage.

(2) A challenge against a Magistrate shall be deposited at the registry of the Court and the Magistrate against whom the challenge is made shall either accept the challenge or set down in writing the reasons for not abstaining from hearing the cause or matter.

(3) Where a Magistrate does not abstain from hearing a cause or matter upon a challenge made against him, the reasons in answer to the challenge as set down under subsection (2) shall be transmitted to the Registrar for submission to a Judge in Chambers.

(4) The Judge in Chambers shall determine the question of challenge summarily, in the absence of the parties, and, where the challenge is not admitted, may award costs not exceeding 50 rupees against the party having made the challenge.

(5) Where a Magistrate thinks that he should abstain from hearing a cause or matter, he shall give notice of his reason to the Chief Justice who shall thereupon take such steps as he thinks necessary for the hearing of the cause or matter.

9. Court orders

(1) Every order or judgment of the Court shall be enforced as if it were an order or judgment of a District Court and a Magistrate may make any order as to costs that a District Magistrate may make.

(2) The Court may—

- (a) make such orders as it thinks necessary or expedient—
 - (i) relating to matters consequential upon any order or judgment made or given by it;
 - (ii) for issuing warrants of arrest and authorising arrest;

- (iii) requiring the attendance of persons and the production of articles or documents;
- (iv) remanding any person charged; and
- (v) granting bail, and taking, forfeiting, discharging and otherwise dealing with recognisances;
- (b) administer oaths;
- (c) punish contempt of Court in the same manner as a District Magistrate;
- (d) adjourn any proceedings and at any resumed proceedings admit fresh evidence; and
- (e) order the plaintiff or the defendant to pay the other party such amount by way of compensation for wages lost or expenses incurred in attending the Court as it thinks fit.

10. Release pending trial

(1) A Magistrate may, in a warrant of arrest, direct that the person named in the warrant be released on his entering into a bond in such amount as may be specified, with or without sureties, for his appearance before the Court.

(2) The warrant shall—

- (a) specify the number of sureties, if any;
- (b) specify the date and time at which the person arrested shall appear before the Court; and
- (c) require that the person arrested shall appear before the Court as and when required until the case is disposed of.

(3) A bond may, for the purposes of this section, be entered into before—

- (a) a Magistrate;
- (b) a clerk of the Court; or
- (c) any person before whom a bond may be entered into for the release of a person arrested in respect of any matter within the jurisdiction of a District Magistrate.

(4) Where security is taken under subsection (3) (c), the bond shall be forwarded to the Court.

11. Appeal

(1) The Magistrate shall explain to a person against whom judgment has been given that he has a right to appeal, and the conditions under which the right may be exercised.

(2) Any person may appeal against a final judgment of the Court subject to the same conditions as appeals from the decision of a District Magistrate.

[S. 11 amended by Act 29 of 1990.]

12. Reviewing Authority

- (1) There shall be a Reviewing Authority for the purposes of this Act.
- (2) The Reviewing Authority shall be the Chief Justice or such other Judge as he may depute for the purpose.
- (3) The Magistrate shall—
 - (a) at the end of each month, and in the form set out in the Second Schedule, submit to the Chief Justice a list of all cases tried by him; and
 - (b) where so requested, forward the record, together with any documents or exhibits produced at the trial of every case, not being a case subject to appeal, which the Reviewing Authority wishes to review.

13. Proceedings before Reviewing Authority

- (1) Where the proceedings of the Court which have not been the subject of an appeal are to be reviewed, the Reviewing Authority shall give notice to the Court and to the parties concerned of the date, time and place when the proceedings will be reviewed.
- (2) Proceedings before the Reviewing Authority shall be conducted in such manner as the Reviewing Authority may determine.
- (3) (a) The Reviewing Authority shall communicate its decision to the Magistrate who shall record the decision and, where necessary, amend his judgment accordingly.
(b) The judgment of the Magistrate shall thereupon become final and the party against whom judgment is entered following the review may appeal against it pursuant to section 11 (2).
- (4) No costs shall be allowed before the Reviewing Authority.
- (5) No review of proceedings shall be commenced by the Reviewing Authority after 6 weeks from the date of the judgment of the Court.

[S. 13 amended by Act 20 of 1993.]

14. Suspension of execution of judgment

- (1) Subject to subsection (2), no judgment of the Court shall be executed until 6 weeks after the date of the judgment.
- (2) (a) Where a decision is reviewed, the judgment of the Court shall not be executed until it becomes final pursuant to section 13 (3) and the delay for appealing against it has expired.
(b) Where an appeal is lodged against a decision of the Court, the judgment shall not be executed until the appellate Court has disposed of the matter.

[S. 14 amended by Act 20 of 1993.]

15. Proceedings by Permanent Secretary

(1) The Permanent Secretary may institute such civil or criminal proceedings as he thinks necessary and conduct such proceedings in the Court for, or in the name of, a worker.

(2) Notwithstanding articles 389 and 425 of the Code Civil Mauricien, the Permanent Secretary may institute proceedings under subsection (1) without the consent, in the case of a minor, of the parent or guardian.

(3) Where several workers have complaints of the same nature, the Permanent Secretary may consolidate the complaints of all the workers into one cause of action.

16. Court fees, costs and judgment

(1) No Court fees shall be chargeable before the Court on any proceedings commenced by the Permanent Secretary on behalf of any worker against his employer.

(2) Where the Court is of the opinion that any proceedings instituted by the Permanent Secretary for and in the name of a worker were frivolous or vexatious, the Court may make an order for the payment of costs by the Permanent Secretary as if he were a party to the proceedings.

17. Intervention by Attorney-General

(1) Where any matter is before the Court, the Attorney-General may, for the purpose of giving such assistance to the Court as he may be able to provide, intervene in the matter.

(2) The Attorney-General may, at the request of the Court, intervene in any matter before the Court.

(3) The Attorney-General may, on an intervention made under this section, tender such evidence, and make such submissions, as he thinks fit with respect to any matter before the Court.

(4) (a) No intervention by the Attorney-General shall be taken to cause the Attorney-General to become a party to the matter before the Court.

(b) No order or award shall be made against the Attorney-General in any matter.

18. Rules

The Chief Justice may make such rules as he thinks fit for the purposes of this Act.

FIRST SCHEDULE

[Section 3]

Employment and Training Act
Employment Rights Act
Industrial Expansion Act
Occupational Safety and Health Act
Passenger Transport Industry (Buses) Retiring Benefits Act
Sugar Industry Retiring Benefits Act
Workmen's Compensation Act

[First Sch. amended by Act 34 of 1988; s. 104 (1) of Act 28 of 2005 w.e.f. 1 September 2007; s. 38 (2) of Act 6 of 2013 w.e.f. 11 June 2013.]

SECOND SCHEDULE

[Section 12]

CRIMINAL CASES HEARD BEFORE THE INDUSTRIAL COURT DURING THE MONTH OF 20

| Case no. | Complainant | Accused | Charge | Date of judgment | Judgment | Whether fine paid or imprisonment served | Remarks |
|----------|-------------|---------|--------|------------------|----------|--|---------|
|----------|-------------|---------|--------|------------------|----------|--|---------|

CIVIL CASES HEARD BEFORE THE INDUSTRIAL COURT DURING THE MONTH OF 20

| Case no. | Plaintiff | Defendant | Claim | Date of judgment | Judgment | Remarks |
|----------|-----------|-----------|-------|------------------|----------|---------|
|----------|-----------|-----------|-------|------------------|----------|---------|
