

THE LABOUR RELATIONS AND INDUSTRIAL DISPUTES ACT

The Labour Relations Code

L.N. 310/76

(made under section 3)

ORDERS

(Omitted)

(under section 10)

REGULATIONS

(under section 27)

The Labour Relations and Industrial Disputes Regulations, 1975

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THE LABOUR RELATIONS AND INDUSTRIAL DISPUTES
ACT

THE LABOUR RELATIONS CODE
(made under section 3)

(Approved by the House of Representatives on the 20th day of July, 1976, and by the Senate on the 6th day of August, 1976) L.N. 310/76

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THE LABOUR RELATIONS CODE

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THE LABOUR RELATIONS CODE

PART I—*Preliminary*1. *Establishment*

The Code is established in accordance with the provisions of section 3 of the Labour Relations and Industrial Disputes Act. Its purpose is to set out guidelines which in the opinion of the Minister will be helpful for the purpose of promoting good labour relations, having regard to the following—

- (i) the principle of collective bargaining freely conducted on behalf of workers and their employers with due regard to the interest of the public;
- (ii) the principle of developing and maintaining orderly procedures in industry for the peaceful and expeditious settlement of disputes by negotiations, conciliation or arbitration;
- (iii) the principle of developing and maintaining good personnel management techniques designed to secure effective co-operation between workers and employers and to protect workers and employers against unfair labour practices.

2. Purpose

The code recognizes the dynamic nature of industrial relations and interprets it in its widest sense. It is not confined to procedural matters but includes in its scope human relations and the greater responsibilities of all the parties to the society in general.

Recognition is given to the fact that management in the exercise of its function needs to use its resources (material and human) efficiently. Recognition is also given to the fact that work is a social right and obligation, it is not a commodity; it is to be respected and dignity must be accorded to those who perform it, ensuring continuity of employment, security of earnings and job satisfaction.

The inevitable conflicts that arise in the realization of these goals must be resolved and it is the responsibility of all concerned, management to individual employees, trade unions and employer's associations to co-operate in its solution. The code is designed to encourage and assist that co-operation.

3. Application

Save where the Constitution provides otherwise, the code applies to all employers and all workers and organizations representing workers in determining their conduct one with the other, and industrial relations should be carried out within the spirit and intent of the code. The code provides guidelines which complements the Labour Relations and Industrial Disputes Act; an infringement of the code does not of itself render anyone liable to legal proceedings, however, its provisions may be relevant in deciding any question before a tribunal or board.

4. Revision

In accordance with section 3(3) of the Act, the code may be revised by the Minister. This will be done in consultation with representative organizations of employers and workers.

This provision is not to be interpreted as inhibiting or restricting the right of the parties to review and improve their own labour management practices as the need arises.

PART II—Responsibilities

5. Employers

In keeping with the need for management to be productive and responsive to workers and the society in general, good management

practices and industrial relations policies which have the confidence of all must be one of management's major objectives.

The development of such practices and policies are a joint responsibility of employers and all workers and trade unions representing them, but the primary responsibility for their initiation rests with employers.

Employers should therefore ensure that—

- (i) in the implementation of these policies due regard is to be paid to their responsibilities to the society;
- (ii) in addition to discharging their obligations to workers in respect of terms and conditions of employment, they adopt policies for the social and educational improvement of their workers;
- (iii) they respect their workers' rights to belong to a trade union, and to take part in the union's activities, which include seeking recognition for negotiation purposes, and that they are not averse to negotiating in good faith with such trade union;
- (iv) adequate and effective procedures for negotiation, communication and consultation, and the settlement of grievances and disputes, are maintained with their workers, and organizations representing such workers;
- (v) these procedures are understood and applied by all members of the management team;
- (vi) all supervisory staff have clearly defined responsibilities in the organizational structure, are in charge of manageable work groups, understand their responsibilities and have the necessary qualities, and industrial relations training and exposure to do the job;
- (vii) supervisors are cognizant of management policies as they affect their individual work groups and that they maintain an effective link between management and members of their work groups.

6. Individual Worker

- (i) The worker has a responsibility, to his employer to perform his contract of service to the best of his ability, to his trade union to support it financially

and to vest in it the necessary authority for the performance of its functions efficiently; to his fellow workers in ensuring that his actions do not prejudice their general well-being including their health and safety; to the nation by ensuring his dedication to the principle of productive work for the good of all;

- (ii) the legal relationship between employer and worker is determined by the individual contract of employment. Often many of its terms are fixed by collective bargaining and contained in collective agreements. The worker should familiarize himself with the terms of his contract, and in particular any procedure for the dealing with grievances, and abide by them;
- (iii) some workers have special obligations arising out of the nature of their employment. Such worker when acting in the course of his employment should be mindful of those obligations and should refrain from action which conflicts with them.

7. Trade Unions

The main objective of a trade union is to promote the interest of its members, due regard being paid to the interest of the total labour force and to the greater national interest. To achieve this aim, trade unions have a duty to maintain the viability of the undertaking by ensuring co-operation with management in measures to promote efficiency and good industrial relations.

Trade Unions should therefore—

- (i) where appropriate, maintain jointly with management and other trade unions effective arrangements at industry or local levels for negotiation, consultation and communication and for settling grievances and disputes;
- (ii) take all reasonable steps to ensure that their officials and members observe all arrangements;
- (iii) provide for the training of delegates in the scope of their powers and duties and the day-to-day operation of the union;
- (iv) provide adequate educational opportunities for the advancement of their members;

- (v) be properly staffed to serve the needs of its members, and allow for effective lines of communication between such staff and the rank and file membership;
- (vi) encourage members to take part in its activities by adopting such means as would best allow them to do so, including the compilation and distribution of information;
- (vii) make available information pertaining to the rules and policies of the unions;
- (viii) provide adequate advisory services for their members and in particular assist them to understand the terms and conditions of their employment;
- (ix) identify trends in industrial relations to help their members to anticipate and keep abreast of change.

8. Employers' Associations

The principal aim of employers' associations is to promote the interests of their members, due regard being paid to the interest of the total labour force and to the greater national interest.

Employers' associations should therefore—

- (i) co-operate with trade unions for the establishment at industry level where appropriate, of procedures for the negotiation of terms and conditions of employment and the settlement of disputes and grievances;
- (ii) encourage their members to establish effective procedures in consultation with trade unions recognized by them, for the settlement of disputes and grievances at the local level;
- (iii) take all reasonable steps to ensure that their members pursue those procedures which are established;
- (iv) collect, analyse and distribute information in the industrial relations field;
- (v) identify trends in industrial relations to help their members to anticipate and keep abreast of change;
- (vi) provide adequate advisory services for their members;
- (vii) encourage their members to provide adequate educa-

tional opportunities for the advancement of their workers;

- (viii) encourage their members to take an interest in their association and be prepared to contribute to its resources.

PART III—Personnel Management Practices

9. Employment Policies

Clear, comprehensive and non-discriminatory employment policies are an indication of the efficiency of an undertaking. The initiation of such policies is primarily the responsibility of employers, but they should be developed in consultation or negotiation with workers or their representatives.

Employment policies should—

- (i) provide for proper recruitment and selection, having regard to the qualification and experience needed to perform the job;
- (ii) have regard to the need for workers to advance themselves in the undertaking and so consider filling vacancies by promotion or transfers;
- (iii) make clear to the workers the requirements, terms and conditions of employment including *inter alia*—
 - (a) general conditions of employment;
 - (b) job requirements and the person to whom the worker is directly responsible;
 - (c) disciplinary rules and the procedures for the examination of grievances;
 - (d) opportunities for promotion and training;
 - (e) social welfare services, such as medical care, canteens, pensions, etc.;
 - (f) occupational safety health and welfare regulations;
 - (g) methods of consultation;
 - (h) any trade union arrangements;

- (i) the company's personnel and industrial relations policies.
- (iv) provide induction training both as to the actual job performance and as to the policies and procedures existing in the undertaking, encouraging their adoption particularly as they relate to safety, health and welfare matters;
- (v) ensure that workers are kept abreast of changing job techniques by on the job training or by approved courses;
- (vi) not be influenced by conditions relating to age, sex or other personal factors except where relevant to the job;
- (vii) make provision for workers to further their educational standard if they so desire, by granting time off for such purposes;
- (viii) be carried out by competent staff and be subject to periodic review to ensure efficiency.

10. *Manpower use and Planning*

Proper manpower utilization policies are essential to efficiency.

Such policies should—

- (i) be given high priority and be integrated with other aspects of planning in the undertaking;
- (ii) assess existing manpower resources based on adequate and up-to-date personnel records;
- (iii) identify future manpower needs and formulate and implement policies for their fulfilment;
- (iv) seek to avoid unnecessary fluctuation in the work force and where such fluctuations are necessary, ensure that there is a minimum of disruption to the workers concerned;
- (v) ensure that the undertaking operates in an efficient manner by identifying such problems as absenteeism and high incidence of labour turn-over, recording such information and taking steps in consultation with workers or their representatives to correct them.

11. Security of Workers

Recognition is given to the need for workers to be secure in their employment and management should in so far as is consistent with operational efficiency—

- (i) provide continuity of employment, implementing where practicable, pension and medical schemes;
- (ii) in consultation with workers or their representatives take all reasonable steps to avoid redundancies;
- (iii) in consultation with workers or their representatives evolve a contingency plan with respect to redundancies so as to ensure in the event of redundancy that workers do not face undue hardship. In this regard management should endeavour to inform the worker, trade unions and the Minister responsible for labour as soon as the need may be evident for such redundancies;
- (iv) actively assist workers in securing alternative employment and facilitate them as far as is practicable in this pursuit.

12. Working Environment

Various Acts of Parliament lay down minimum standards in respect of working conditions.

(A) Management in consultation with workers or their representatives should seek to improve these standards.

Management has a duty to—

- (i) furnish, equip and otherwise provide factories, workshops, offices and other places where work is to be performed with such facilities as meet the reasonable requirements of safety, health and welfare regulations and to adopt suitable measures for the workers protection, and the prevention of the spread of epidemic or infectious disease;
- (ii) organize work in such a manner as to provide in so far as is practicable and best guarantee for the workers' safety and health;
- (iii) adopt the statutory and other suitable measures for the prevention of accidents at the work place and

to keep at all times such medication and therapeutic materials as are necessary for the administration of effective first aid;

- (iv) ensure that personnel are trained in first aid techniques and in such numbers, as to provide for the presence of at least one such trained worker during working hours;
- (v) display in conspicuous positions at the work place rules and regulations, statutory or otherwise concerning safety and health precautions.

(B) The worker has a duty to—

- (i) ensure that he understands and observes the safety and health regulations;
- (ii) make use of all protective equipment provided;
- (iii) co-operate with management and fellow workers in the development and implementation of all safety, health and welfare measures.

13. *Payment of Wages*

The question of payment for work done is often a contentious area in industrial relations. Wage systems should be agreed and should not be in contravention of any statute.

Wage systems should also—

- (i) ensure that the agreed wages and rates are paid;
- (ii) be kept in simple terms so that workers can understand them;
- (iii) be kept under review to ensure their applicability to changing circumstances.

PART IV—*Workers Representation and the Collective Bargaining Process*

14. *Trade Union Recognition*

- (i) The Labour Relations and Industrial Disputes Act and the Labour Relations and Industrial Disputes Regulations, 1975, set out the conditions and procedures for the taking of ballots to determine bargaining rights

on behalf of workers. This does not, however, preclude employers and trade unions from voluntarily determining claims for bargaining rights where—

- (a) there are no other trade unions representing or claiming to represent the workers in question;
 - (b) the employer is satisfied that the majority of workers in the proposed bargaining unit are members of the applicant union.
- (ii) where recognition is accorded voluntarily the employer should immediately so inform the Ministry of Labour and Employment stating the name of the trade union, the date of recognition and the composition of the bargaining unit;
 - (iii) the employer and the recognized trade union should agree on procedures for resolving disputes and differences and should conduct negotiations in good faith;
 - (iv) trade unions recognized for bargaining purposes should be allowed reasonable facilities to properly represent their members.

15. Representation at Place of Employment (Delegates)

To ensure that proper representation of all workers, delegates are appointed from the work force to represent the interest of the workers. In doing so cognizance must be taken of the size and distribution of the work force as well as the organization of the establishment.

- (i) Trade Unions should—
 - (a) specify the conditions of eligibility for the selection and appointment of delegates, and define the manner in which they can be removed;
 - (b) provide delegates with written authority setting out their responsibilities, particularly with regard to industrial action;
 - (c) notify the management promptly in writing when delegates are appointed, the period for which they hold office, the work groups they represent and any changes among delegates;

- (d) in consultation with management provide for the proper training of delegates and seek to agree on remuneration whilst attending training courses;
 - (e) consider the selection of a chief delegate to co-ordinate activities and where there is more than one union, seek agreement with management and that other union for the co-ordination of delegate activities.
- (ii) Management should—
- (a) notify delegates of its employment and industrial relations policies;
 - (b) consult with delegates on proposed changes in work programmes and methods or any other matter directly affecting the workers;
 - (c) co-operate with delegates in the performance of their duties and in particular agree on reasonable time off with pay to carry out these duties. Where such time off has not previously been agreed on, request by delegates should be made of the immediate supervisor and should not be unreasonably withheld;
 - (d) make available to delegates a list of new workers and staff changes of particular interest to the bargaining unit, and offer reasonable facilities to acquaint workers with union matters.

16. *Collective Bargaining*

(i) Collective bargaining is the process whereby workers or their representatives and management negotiate with a view to reaching agreement on the terms and conditions of employment of the workers concerned. It should be conducted in an atmosphere of reasonableness and good faith, and management and unions should take all steps to ensure that their representatives conduct themselves during negotiations in a manner which will avoid undue acrimony and facilitate the peaceful and orderly conduct of the negotiations. There should be a determination to abide by the terms agreed and due regard should always be paid to the interest of the community.

(ii) Collective bargaining is more meaningful if the parties are informed on the matters being negotiated. The parties should aim to meet all reasonable requests for information which is relevant to the negotiation in hand, and in particular, management should

make available information which is supplied to their shareholders or published in annual reports;

(iii) Collective bargaining may take place in relation to the industry as a whole, or a particular undertaking, or in relation to a particular group of employees within an establishment;

(iv) Where negotiations take place at more than one level, their extent and scope should be clearly defined and properly confined to matters which can appropriately be dealt with at those levels.

17. Bargaining Units

(i) Section 2 of the Labour Relations and Industrial Disputes Act, defines a bargaining unit as "those workers or categories of workers of an employer in relation to whom collective bargaining is or could appropriately be carried on". The Regulations made under that Act lay down certain factors to be considered in the event of a dispute in relation to workers who should comprise the bargaining unit. In addition to these factors, consideration may be given to the following—

- (a) the composition of bargaining units should be wide as is practicable so as to avoid a multiplicity of units within the same establishment, as too many small units make it difficult to ensure that related groups of employees are treated consistently;
- (b) the practice of having separate bargaining units for management and supervisory personnel and excluding them from other bargaining units;
- (c) that negotiation arrangements may need periodic review but this must be balanced against the need to avoid disruption of existing bargaining units which are working well.

(ii) Where a dispute exists over any matter concerning the bargaining unit the parties should endeavour to settle the matter by direct negotiation.

Failing agreement, the parties should utilize the conciliation services of the Ministry of Labour.

18. Collective Agreements

The major aim of the collective bargaining process is to arrive at terms and conditions acceptable to both employers and workers. These terms and conditions are usually enshrined in collective agreements, and often contain procedural and substantive provisions.

- (i) Procedural provisions should cover—
 - (a) arrangements for negotiating terms and conditions of employment and provision for their re-negotiation;
 - (b) grievance procedures for settling collective disputes and for dealing with disciplinary matters;
 - (c) facilities for trade union activities in the establishment, and the appointment and functions of delegates;
 - (d) provisions for joint permanent or *ad hoc* consultative committees.
- (ii) Substantive provisions should state—
 - (a) the duration of the agreement;
 - (b) all matters relating to remuneration;
 - (c) normal hours of work, provisions for overtime and shift work;
 - (d) provisions for vacation, sick, maternity and casual leave;
 - (e) compensation for job related injuries;
 - (f) provisions for dealing with redundancies, temporary lay off and re-hiring;
 - (g) provisions for determining job performance, job evaluation and job classification;
 - (h) provisions for deduction by management from the pay of members of trade unions, contributions duly authorized by such members.
- (iii) Where practicable, collective agreements should be concluded on an industry wide level, as this ensures uniformity and consistency throughout the particular industry. The matters suitable to such agreement may cover—
 - (a) terms and conditions of employment of general application;
 - (b) general guidelines as to how and within what limits any negotiations at the level of an undertaking should be conducted;
 - (c) procedures for settling disputes, either on the industry wide level or in the individual undertaking.

(iv) Collective Agreements should be in writing, and management should send copies of such agreements to the Ministry of Labour and Employment for their records.

PART V—*Communication and Consultation*

19. *Communication and Consultation*

Communication and consultation are necessary ingredients in a good industrial relations policy as these promote a climate of mutual understanding and trust which alternately result in increased efficiency and greater job satisfaction. Management and workers or their representatives should therefore co-operate in promoting communication and consultation within the organization.

(a) *Communication*

Communication is a two way flow of information between management and workers or their representatives. There should likewise be scope for a cross flow of information between various departments of management—

- (i) management should following consultation with workers or their representatives take appropriate measures to apply an effective policy of communication;
- (ii) such measures as are adopted should in no way prejudice the position of recognized workers representatives or management and supervisory representatives;
- (iii) a communication policy should be adapted to the nature of the undertaking, its size and composition and the interest of the workers;
- (iv) the most important medium of communication is by word of mouth through personal contact between management and workers or workers' representatives. However, personal contact should be supplemented where necessary by such means as—
 - (a) written information by way of house-journals, bulletins, notice-boards;
 - (b) meetings for the purpose of exchanging views and information;
 - (c) media aimed at permitting workers to submit suggestions and ideas on the operation of the undertaking;

- (d) proper orientation courses;
- (v) the matters of interest to be communicated include the operation and future prospects of the undertaking especially as they affect the worker. Information regarding training, prospects of promotion, general working conditions, staff welfare services, safety regulations, social security schemes, transfers, termination of employment, job description and procedures for the examination of grievances is a matter which management is expected to have readily available in easily understandable form. Management should undertake to explain decisions which are likely to affect directly or indirectly the situation of the workers in the establishment provided the disclosure of such information is not damaging to either of the parties.

(b) Consultation

Consultation is the joint examination and discussion of problems and matters affecting management and workers. It involves seeking mutually acceptable solutions through a genuine exchange of views and information. Management should take the initiative in establishing and regularising consultative arrangements appropriate to the circumstances of the undertaking in co-operation with the workers or their representatives.

(i) Management should ensure that in establishing consultative arrangements—

- (a) all the information necessary for effective consultation is supplied;
- (b) there is adequate opportunity for workers and their representatives to expose their views without prejudicing their positions in any way;
- (c) senior members of management take an active part in consultation;
- (d) there is adequate opportunity for reporting back.

(ii) Where formal arrangements exist the rules and procedures as well as the subjects to be discussed should be agreed between representatives of management and workers.

PART VI—Grievance, Dispute and Disciplinary Procedures**20. Disputes Procedures**

Disputes are broadly of two kinds—

- (a) disputes of right which involve the application and interpretation of existing agreement or rights; and
- (b) disputes of interests which relate to claims by workers or proposal by management as to the terms and conditions of employment.

Management and workers representatives should adopt a procedure for the settlement of such disputes which—

- (i) should be in writing;
- (ii) states the level at which an issue should first be raised;
- (iii) sets time limits for each stage of the procedure and provides for extension by agreement;
- (iv) precludes industrial action until all stages of the procedure have been exhausted without success;
- (v) have recourse to the Ministry of Labour and Employment conciliation services.

21. Individual Grievance Procedure

All workers have a right to seek redress for grievances relating to their employment and management in consultation with workers or their representatives should establish and publicize arrangements for the settling of such grievances. The number of stages and the time allotted between stages will depend on the individual establishment. They should neither be too numerous nor too long if they are to avoid frustration. The procedure should be in writing and should indicate—

- (i) that the grievance be normally discussed first by the worker and his immediate supervisor—commonly referred to as the “first stage”;
- (ii) that if unresolved at the first stage, the grievance be referred to the department head, and that the worker delegate may accompany the worker at this stage—the second stage, if the worker so wishes;

- (iii) that if the grievance remains unresolved at the second stage, it be referred to higher management at which stage it is advantageous that the worker be represented by a union officer; this is the third stage;
- (iv) that on failure to reach agreement at the third stage, the parties agree to the reference of the dispute to conciliation by the Ministry of Labour and Employment;
- (v) a time limit between the reference at all stages;
- (vi) an agreement to avoid industrial action before the procedure is exhausted.

22. Disciplinary Procedure

(i) Disciplinary procedures should be agreed between management and worker representatives and should ensure that fair and effective arrangements exist for dealing with disciplinary matters. The procedure should be in writing and should—

- (a) specify who has the authority to take various forms of disciplinary action, and ensure that supervisors do not have the power to dismiss without reference to more senior management;
- (b) indicate that the matter giving rise to the disciplinary action be clearly specified and communicated in writing to the relevant parties;
- (c) give the worker the opportunity to state his case and the right to be accompanied by his representatives;
- (d) provide for a right of appeal, wherever practicable to a level of management not previously involved;
- (e) be simple and rapid in operation.

(ii) The disciplinary measures taken will depend on the nature of the misconduct. But normally the procedure should operate as follows—

- (a) the first step should be an oral warning, or in the case of more serious misconduct, a written warning setting out the circumstances;
- (b) no worker should be dismissed for a first breach of discipline except in the case of gross misconduct;

- (c) action on any further misconduct, for example, final warning suspension without pay or dismissal should be recorded in writing;
- (d) details of any disciplinary action should be given in writing to the worker and to his representative;
- (e) no disciplinary action should normally be taken against a delegate until the circumstances of the case have been discussed with a full-time official of the union concerned.

THE LABOUR RELATIONS AND INDUSTRIAL DISPUTES ACT

REGULATIONS
(under section 27)

THE LABOUR RELATIONS AND INDUSTRIAL DISPUTES REGULATIONS, 1975

(Made by the Minister on the 1st day of May, 1975)

1. These Regulations may be cited as the Labour Relations and Industrial Disputes Regulations, 1975.

L.N.
135/75.
Amd.:
L.N. 106B/78

2. In these Regulations—

“list of voters” means the list referred to in paragraph (5) of regulation 5 as the list of workers who are eligible to vote in the ballot;

“polling station” means the place provided by an employer pursuant to paragraph (1) of regulation 7;

“presiding officer” means the officer designated by the Minister under regulation 7 to preside at the taking of the ballot;

“voting period” means the period specified by the Minister under regulation 7 as the period during which the ballot shall be taken.

3.—(1) The Minister may cause a ballot to be taken under section 5 of the Act if—

- (a) a request in writing so to do is made to him by a trade union (hereinafter referred to as the applicant) and a certificate in the form set out as Form No. 1 in the Schedule is supplied to him; and
- (b) he is satisfied that a claim in the form set out as Form No. 2 in the Schedule was served on the employer of the workers in relation to whom that request has been made; and
- (c) a ballot of the workers or category of workers in relation to whom that request has been made was not taken during the period of one year immediately preceding the date of that request, or, where such a ballot was taken during that period, if he is satisfied that new or unforeseen circumstances have arisen which, in his opinion, justify the taking of the ballot for which that request has been made; and

Schedule.
Form No. 1.

Form No. 2.

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- (d) he is satisfied, after taking the steps referred to in paragraph (2), that not less than forty *per centum* of the workers in relation to whom that request has been made are members of the applicant; and
- (e) he is satisfied that—
- (i) the employer has failed to apply within fifteen days after the date of service of the claim and that not more than thirty days have elapsed since that date; or
 - (ii) the employer has stated that he is not satisfied that those workers wish a particular trade union to have bargaining rights in relation to them, or has stated that he already recognizes a trade union, other than the applicant, as having bargaining rights in relation to those workers, or that he will not recognize any trade union as having bargaining rights in relation to those workers; and the Minister is satisfied that not more than fifteen days have elapsed since the date on which the employer has so stated; or
 - (iii) the applicant and the employer adopted such means as were available to them for settlement of the claim without resort to industrial action, but failed to settle the claim.

(2) The Minister shall, as soon as is practicable after he receives a request in relation to which the requirements of paragraph (1), other than the requirement of sub-paragraph (d) of that paragraph, are satisfied, take such steps as he thinks fit to determine whether not less than forty *per centum* of the workers in relation to whom request for the ballot has been made are members of the applicant.

(3) The Minister may, pursuant to paragraph (2) require the employer to supply him, within such period as the Minister may specify, with such information as the Minister thinks necessary in respect of the workers in relation to whom the request for the ballot has been made, and in particular may require the employer to state—

- (a) the names of those workers and the categories in which they are employed;
- (b) the names of any other workers in his employment and the categories in which they are employed;
- (c) whether he objects to the inclusion, in a voters' list, of the names of any of the workers in relation to whom the request for the ballot has been made, and if so, what are the names of those workers and what are the reasons for his objections;

- (d) the general nature of his business;
- (e) the name of any trade union which he recognizes as having bargaining rights in relation to the workers referred to in sub-paragraph (a);
- (f) the name of any trade union, other than the applicant, which has claimed bargaining rights in relation to the workers referred to in sub-paragraph (a), and the date of the claim of that other trade union;
- (g) whether any collective agreement relating to any workers in his employment is in force and if so, to which categories it relates, the date of commencement and the date of expiry.

(4) If any collective agreement containing the terms and conditions of employment of the workers in relation to whom the request for the ballot has been made is in force—

- (a) the Minister shall not cause the ballot to be taken earlier than ninety days before the date on which any subsisting specified period of that collective agreement is due to expire;
- (b) the Minister's decision that a ballot should be taken shall be subject to the conditions that—
 - (i) that collective agreement shall not be affected by the result of the ballot; and
 - (ii) no negotiations for the making of a new collective agreement in respect of those workers shall be concluded before the ballot is taken.

(5) The Minister may also require the applicant and the employer on whom the claim was served to produce, within such period as the Minister may specify, such books and other documents, and to give him such other information, as he thinks necessary for the purpose of verifying any information supplied to him pursuant to paragraph (1) or (3).

(6) Any person—

- (a) who refuses to supply the Minister any information which the Minister, pursuant to this regulation, requires him in writing to supply; or
- (b) who wilfully gives false information in a certificate referred to in sub-paragraph (a) of a paragraph (1),

shall be guilty of an offence and be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars.

(7) In paragraph (4) "specified period" means—

- (a) in relation to a collective agreement which specifies (in whatever manner) any period, not exceeding two years, during which that collective agreement shall remain in force, the entire period so specified;
- (b) in relation to any other collective agreement—
 - (i) the period of two years from the date of commencement (or where no date of commencement is mentioned in that collective agreement, the period of two years from the date of execution) of that collective agreement;
 - (ii) every additional period of two years after the period specified in sub-paragraph (i);
 - (iii) any fractional part of two years remaining after any period specified in sub-paragraph (i) or sub-paragraph (ii), as the case may require.

4. If there is a dispute as respects the category of workers of whom a ballot should be taken or the persons who should be eligible to vote, the matters which shall be taken into consideration for the purpose of settling the dispute include—

- (a) the community of interest of the workers in that category, and in particular, whether the duties and responsibilities and work place are identical for all of those workers;
- (b) the history of collective bargaining in relation to the workers in the employment of the employer concerned, or in relation to workers employed by other employers in the trade or business in which that employer is engaged;
- (c) the interchangeability of the workers in respect of whom the dispute arises;
- (d) the wishes of the workers in respect of whom the dispute arises.

5.—(1) If there is no dispute as respects the category of workers of whom a ballot should be taken or the workers who should be eligible to vote in the ballot, or after the settlement of any dispute which arises in connection with that matter, the Minister may require the employer to prepare and certify a list of those workers from his pay bills, and to furnish the Minister, within such period as he may specify, with such number of copies of that certified list as he may require.

(2) The Minister shall, as soon as he receives copies of the certified list referred to in paragraph (1), cause to be given to the applicant (and, if there are other trade unions claiming bargaining rights in relation to the workers whose names appear on the list, to each of those trade unions) one of those copies.

(3) If any trade union to which a copy of the certified list is given in accordance with paragraph (2) makes to the Minister, within five days after the copy was given to that trade union, an objection in writing to the inclusion or omission of any name in or from the list the Minister shall assist the employer and the trade unions concerned to settle the objection; if they fail to settle the objection the Minister shall make such inquiries, and examine such documents, as he thinks fit and settle the objection in such manner as he thinks just.

(4) If the employer and the applicant and any other trade union claiming bargaining rights in relation to the workers whose names appear on the certified list referred to in paragraph (1) jointly request the Minister in writing, before the date specified under regulation 7, to amend that list, the Minister shall amend the list in accordance with that request.

(5) The certified list furnished to the Minister under this regulation, with any alteration or amendment made in accordance with paragraph (3) or (4), shall be the list of the workers who are eligible to vote in the ballot.

6.—(1) The Minister shall, as soon as practicable after the period of five days referred to in paragraph (3) of regulation 5, cause to be prepared such number of ballot papers as may be necessary for the ballot.

(2) Where the applicant is the only trade union claiming bargaining rights in relation to the workers whose names appear on the list of voters the ballot papers shall be in the form set out as Form No. 3 in the Schedule.

Schedule
Form No. 3.

(3) Where any trade union besides the applicant also claims bargaining rights in relation to the workers whose names appear on the list of voters—

(a) the ballot papers shall be in the form set out as Form No. 4 in the Schedule;

Form No. 4.

(b) the name of each trade union claiming bargaining rights in relation to those workers shall be inserted in a separate compartment of the first column of the ballot papers, and, subject to paragraph (4), if any of those trade unions was recognized, before the preparation of the ballot papers, as having bargaining rights in relation to those workers the name of that trade union shall be the first one on the ballot papers.

(4) Where any trade union other than the applicant is recognized, before the preparation of the ballot papers, as having bargaining rights in relation to the workers whose names appear on the list of voters,

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that trade union may, if it does not wish its time to be inserted in the ballot papers, give to the Minister notice in writing of that fact before the ballot papers are prepared.

(5) Any trade union which gives notice to the Minister in accordance with paragraph (4) shall cease, on the date of that notice, to be recognized as having bargaining rights in relation to the workers whose names appear on the list of voters and to take part in any arrangements for the taking of the ballot, and the name of that trade union shall not be inserted in the ballot papers.

7.—(1) The employer shall, at the request of the Minister provide on his premises suitable accommodation for the taking of the ballot.

(2) The Minister shall—

- (a) designate such officer in the public service as he thinks fit to preside at the taking of the ballot;
- (b) invite the employer to nominate an official agent and shall also invite each trade union whose name appears on the ballot papers to nominate one official agent;
- (c) after consultation with the employer and the trade unions whose names appear on the ballot papers, specify the date on which, and the period during which, the ballot shall be taken, so, however, that that period shall, to such extent as is practicable, be a period during which the workers whose names appear on the list of voters are required, in accordance with their contracts of employment, to be at work.

8.—(1) The presiding officer shall, on the date, and before the commencement of the voting period, be present at the polling station and shall have in his possession—

- (a) the ballot papers prepared under regulation 6;
- (b) a ballot box;
- (c) a supply of challenging forms in the form set out as Form No. 5 in the Schedule;
- (d) the list of voters;
- (e) a supply of pencils and envelopes.

(2) All official agents nominated in accordance with the invitation of the Minister are entitled to be present, during the period specified for the holding of the ballot, at the place provided therefor, and may—

- (a) identify or challenge any person applying for a ballot paper;
- (b) ensure that the ballot is conducted in accordance with these Regulations.

(3) The employer shall permit every worker whose name appears on the list of voters to be absent from work for such portion of the voting period as may be necessary for that worker to cast his vote:

Schedule.
Form No. 5.

Provided that—

- (a) that portion of the voting period shall not exceed two hours (exclusive of the time usually allowed to that worker for taking his meal); and
- (b) the times at which, and the numbers in which, workers shall be released by the employer for the purpose of casting their votes shall be so arranged as to ensure that all the workers whose names appear on the list of voters will have an opportunity to cast their votes during the voting period.

(4) Every worker who is permitted to be absent from work in accordance with paragraph (3) shall be deemed, for the purposes of computing his wages and of determining any of his other rights as a worker, to have been at work during the period of such absence.

9.—(1) Any worker whose name appears on the list of voters is entitled to apply to the presiding officer for a ballot paper, and to cast his vote, during the voting period.

(2) Where a person applies for a ballot paper, the presiding officer shall, in the presence of all official agents in the polling station, ask that person to give his name and shall check whether the name given appears on the list of voters and whether that person has already voted.

(3) If the name given appears on the list of voters the presiding officer shall give a ballot paper to the person applying for it if he has not already voted and shall explain to him that he should vote by placing the symbol "X" in the appropriate space opposite the word or trade union (as the case may require) of his choice and fold the ballot paper so that no one can see, without unfolding the ballot paper, how he voted.

(4) The presiding officer shall—

- (a) unless a person to whom a ballot paper is given states that he is unable to mark the ballot paper, give him a pencil and direct him to a part of the place provided for the holding of the ballot where he may mark the ballot paper in secret;
- (b) if that person states that he is unable to mark the ballot paper, ask him in the presence of all the official agents at the place provided for the holding of the ballot, how he wishes to vote, and then mark the ballot paper in accordance with the wish of that person;

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- (c) after the ballot paper has been marked, instruct the voter to deposit the folded ballot paper in the ballot box in the view of all the persons present.

(5) Any official agent who claims that a person who has applied for a ballot paper is not one of the persons whose names appear on the list of voters may, before that person is given the ballot paper, inform the presiding officer that he wishes to challenge that person and may thereupon record his challenge by completing and signing two copies of the challenging forms referred to in sub-paragraph (c) of paragraph (1) of regulation 8 and giving them to the presiding officer, who shall then, except in the case referred to in paragraph (7), permit that person to vote and shall, after his ballot paper has been marked, place it and one copy of the completed challenging forms into an envelope, seal the envelope, mark on the outside thereof the name of that person and the words "Challenged Ballot", and deposit the envelope in the ballot box.

(6) The presiding officer shall keep the other copy of the completed challenging forms in another envelope, which shall not be deposited in the ballot box.

(7) If all the official agents present agree that a person who has been challenged shall not be permitted to vote the presiding officer shall not permit him to vote.

10. During the voting period—

- (a) no person other than the presiding officer, his assistant (if any), official agents and persons waiting to cast their votes shall be permitted to be in the polling station;
- (b) no person shall, in any part of the premises in which the polling station is situated, seek to influence any person whose name is on the list of voters as to whether, or in what manner, he should vote, or seek to ascertain how that person intends to vote or has voted.

11. At the end of the voting period the presiding officer shall seal the ballot box in the view of all persons present and shall then take the ballot box and deposit it in a secure place approved by the Minister.

12.—(1) On a day appointed by the Minister for the counting of the votes—

- (a) the Minister shall, after examining the copies of completed challenging forms kept by the presiding officer in accordance with paragraph (6) of regulation 9, decide whether the vote

of the person referred to in any of those forms should or should not be counted;

(b) the presiding officer or any other person authorized by the Minister to count the votes shall—

- (i) take the ballot box from the place in which it was being kept, remove the seal and open the ballot box;
- (ii) remove from the ballot box all envelopes which were inserted therein pursuant to paragraph (5) of regulation 9;
- (iii) where the Minister decided, under sub-paragraph (a), that the vote of any person should be counted, remove from its envelope the ballot paper marked by that person, and taking care not to unfold the ballot paper, place it among the other ballot papers in the ballot box;
- (iv) count the votes on the ballot papers in the ballot box.

(2) Official agents are entitled to be present at the counting of the votes, but the validity of the ballot shall not be affected by the absence of any official agent.

(3) The person counting the votes shall, as soon as the counting has been completed, prepare and submit to the Minister a report in the form set out as Form No. 6 in the Schedule.

Schedule.
Form No. 6.

(4) The certificate required by subsection (4) of section 5 of the Act to be issued by the Minister shall be in the form set out as Form No. 7 in the Schedule.

Form No. 7.

13.—(1) After the votes have been counted the list of voters, and all the ballot papers, used in the taking of the ballot shall be stored in a safe place and shall be kept there for such period after the date of counting, which shall not be less than two months, as the Minister shall determine.

(2) Any dispute arising from the manner in which the ballot was taken may, if it is not settled, be reported to the Minister within seven days after the taking of the ballot and the Minister shall settle the dispute in a manner appearing to him to be just.

14. Any person who contravenes any provision of these Regulations for the contravention of which no penalty is provided elsewhere in these Regulations shall be guilty of an offence and be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred dollars.

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SCHEDULE
Form No. 1 (Regulation 3 (1))
Certificate

In respect of the claim of the.....
(Name of trade union)
for representational rights on behalf of the employees of.....
.....
(Name of Employer)

I required the Secretary/Treasurer of the aforesaid trade union to produce to me the following books and records of that trade union for checks—

- (a) the membership roll;
- (b) the ledger.

On examination those books and records show that.....
(number)
employees of the said employer as per list of names and categories attached hereto were enrolled on or before the.....
(Date of claim)
as bona fide members of the said.....
(Name of trade union)
and that.....dues cards have been issued to these
(number)
members; and that the said.....employees have paid
(number)
their entrance fees and are bona fide members of the said trade union, in good financial standing.

Signature.....
(Auditor)

Form No. 2 (Regulation 3 (1))
Claim by Trade Union for Recognition

To.....
(Name of employer)
.....
(Address)
The.....
(Name of trade union)
of.....
(Registered address)

hereby claims bargaining rights in respect of your employees specified in the particulars hereto appended.

Particulars

1. Address of the employer's establishment/s involved—
.....
2. General nature of business at the establishment—
.....

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SCHEDULE, *contd.*

Form No. 2, *contd.*

3. Description of the category/categories claimed—

.....

Dated this.....day of.....19.....

Signature.....

Office.....of

.....
(*trade union*)

Form No. 3 (Regulation 6 (2))

Ballot Paper

Do you wish.....to represent you
(*Name of trade union*)

Yes.....

No.....

Form No. 4 (Regulation 6 (3))

Ballot Paper

(*Name of trade union*)

(*Name of trade union*)

Form No. 5 (Regulation 8 (1))

Challenging form

Name of worker.....

Category.....

Name and Title of person challenging.....

.....

Grounds of challenge.....

.....

Dated this.....day of.....19.....

Signature.....

Office.....of

.....
(*union/employer*)

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Form No. 6 (Regulation 12 (3))

Report on Ballot Results

I hereby report that the ballot taken at the premises of.....

(Name of employer)

at.....on the.....day of (Address)

19....., involving.....and the (Name of employer)

.....resulted as follows: (Names of trade union/s)

The number of names on the list of voters.....

The number of persons who voted.....

*The number voting for..... (trade union)

..... (trade union)

*The number voting "yes"

*The number voting "no"

The number which did not vote

The number of rejected votes

Total

..... Signature of person counting the votes

Form No. 7 (Regulation 12 (4))

Certificate under section 5 (4) of the Act

I hereby certify that the result of the ballot involving.....

(Name of employer)

.....which was taken at (trade union/s)

.....on.....day of..... (Address)

19....., is as follows:

Total number of persons eligible to vote.....

The number which voted.....

*The number voting for..... (trade union)

..... (trade union)

*The number voting "yes"

*The number voting "no"

The number which did not vote

The number of rejected votes

Total

..... Signature

*Delete where not applicable.