

*Legal Supplement Part C to the "Trinidad and Tobago Gazette", Vol. 54,
No. 50, 13th May, 2015*

No. 5 of 2015

Fifth Session Tenth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Industrial Relations Act,
Chap. 88:01

PRINTED BY THE GOVERNMENT PRINTER, CARONI
REPUBLIC OF TRINIDAD AND TOBAGO—2015

THE INDUSTRIAL RELATIONS (AMENDMENT) BILL, 2015

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

The purpose of this Bill would be to amend the Industrial Relations Act, Chap. 88:01 (hereinafter called “the Act”) to strengthen and improve the industrial relations system in Trinidad and Tobago by making the system more efficient, more effective and more expeditious from the recognition of the union to dispute settlement. There is also a need to create an independent dispute settlement process in the formation of the Conciliation and Mediation Service (“CAMS”) and to foster the independence of the Industrial Court.

Clause 1 of the Bill would provide for the title of the Bill.

Clause 2 of the Bill would allow for the Act to come into operation by Proclamation.

Clause 3 of the Bill would provide for the Act to have effect even though inconsistent with sections 4 and 5 the Constitution.

Clause 4 of the Bill would provide for the interpretation of the words “the Act” to mean the Industrial Relations Act.

Clause 5 of the Bill would provide for the definition of expressions used throughout the Bill.

Clause 6 of the Bill would generally delete the words “members” and “member” whenever they occur in Part I of the Act and substitute the words “Justices” and “Justice” respectively.

Clause 7 of the Bill would amend section 4 of the Act by deleting the words “by the President of Trinidad and Tobago who shall in every instrument of appointment” and substituting the words “in accordance with the Constitution”.

Clause 8 of the Bill would provide for the repeal of section 5 of the Act.

Clause 9 of the Bill would amend section 7 of the Act to empower the Court to hear and determine matters brought before it under the Act and other written laws and to impose fines up to a maximum of seventy-five thousand dollars for failure to comply with orders or awards.

Clause 10 of the Bill would provide for the insertion of a new section 22A which would spell out the qualifications of the Secretary and other officers of the Registration Recognition and Certification Board.

Clause 11 of the Bill would amend section 23 of the Act to provide for the composition of the Registration Recognition and Certification Board which will be dealing with applications for certification and recognition among other things.

Clause 12 of the Bill would provide for the changes in the quorum for meetings.

Clause 13 of the Bill would amend section 32 of the Act to provide for the determination of applications for recognition within six months of the date of application.

Clause 14 of the Bill would repeal and replace section 34(2) of the Act to provide for certification of a union as the recognized union by the Board once objections to a claim for recognition or there have been allegations of irregularities in the operation of claimant union has been answered satisfactorily.

Clause 15 of the Bill would amend section 35 of the Act by deleting the words “Part” and “Part IV” and substituting the words “Act” and “this Act” respectively.

Clause 16 of the Bill would amend section 40 of the Act by deleting the word “Part” and substituting the word “Act”.

Clause 17 of the Bill would amend section 41 of the Act by deleting the words “Board” whenever it occurs and “37(2)” and substituting the words “or Chairman as provided for in Part IIIA” and “or 42D” respectively.

Clause 18 of the Bill would amend the Act to insert provisions of a new Part IIIA to confer on the Chairman of the Registration Recognition and Certification Board, the power to grant short-term certification of recognized to majority unions.

Clause 19 of the Bill would amend Part V of the Act by deleting the word “Minister” and substituting the words “Chief Conciliator-Mediator of CAMS”.

Clause 20 of the Bill would amend the Act by deleting the requirement of a worker to be in good standing in his union. It also widens the definition of “employer” to include those persons who

employs one or more worker in a domestic capacity. Additionally, it provides for persons not defined as “workers” under the Act to pursue rights matters under the disputes procedure of the Act, whilst increasing the statutory limit for bringing a matter from six months to two years.

Clauses 21, 22 and 23 of the Bill would provide for the decriminalization of the Act by removing terms of imprisonment and substituting them with fines. Additionally, persons who belong to trade unions, other organizations or office holders who take industrial action in the Health Service and who are found liable, will be fined as such matters are now triable at the Industrial Court.

Clause 24 of the Bill provides for the insertion of a new Part VA which makes it a duty for a recognized union to represent all workers of the bargaining unit which they represent, whether or not the worker is a member of the union, with the Court imposing sanctions on, or decertifying the union for such breaches. Part VB would provide for the establishment of a body corporate to provide independent conciliation and mediation service (CAMS).

Clause 25 of the Bill provides for the institution of prosecution by, or with the consent of the Director of Public Prosecutions, for persons in contravention of sections 69 and 70.

Clause 26 of the Bill would provide for the making of Regulations by the President of the Republic of Trinidad and Tobago, with the contravention of such Rules resulting in increased fines for the offence and for each day it continues. It will also provide for Regulations to be made for matters concerning persons employed by a householder in any capacity of a domestic nature.

Clause 27 of the Bill would, after the Act comes into operation, allow the Office of Economic Research to become more contemporary and efficient with the addition of the words “Legal” and “Relations” to its name. It also provides for inclusion of legal officers, labour economists and other public officers on its staff.

THE INDUSTRIAL RELATIONS (AMENDMENT) BILL, 2015

Arrangement of Clauses

Clause

1. Short title
2. Commencement
3. Act inconsistent with Constitution
4. Interpretation
5. Section 2 amended
6. Part I amended
7. Section 4 amended
8. Section 5 amended
9. Section 7 amended
10. Section 22A inserted
11. Section 23 amended
12. Section 26 amended
13. Section 32 amended
14. Section 34 amended
15. Section 35 amended
16. Section 40 amended
17. Section 41 amended
18. Part IIIA inserted
19. Part V amended
20. Section 51 amended
21. Section 63 amended
22. Section 67 amended
23. Section 68 amended
24. Parts VA and VB inserted
25. Section 78 amended
26. Section 79 amended
27. Section 82 amended

BILL

AN ACT to amend the Industrial Relations Act,
Chap. 88:01

[, 2015]

WHEREAS it is enacted by section 13(1) of the ^{Preamble} Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	1. This Act may be cited as the Industrial Relations (Amendment) Act, 2015.
Commencement	2. This Act comes into operation on such date as is fixed by the President by Proclamation.
Act inconsistent with Constitution	3. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.
Interpretation Chap. 88:01	4. In this Act, “the Act” means the Industrial Relations Act.
Section 2 amended	5. Section 2 of the Act is amended— <ul style="list-style-type: none"> (a) in subsection (1)— <ul style="list-style-type: none"> (i) by inserting in the appropriate alphabetical sequence, the following definitions: <ul style="list-style-type: none"> “CAMS” means the Conciliation and Mediation Service established under section 70F(1); “Minister” means the Minister with responsibility for labour;”; (ii) in the definition of “employer”, by inserting after the word “employer”, the words “, subject to subsection (8) and section 51(5A),”;

- (iii) in the definition of “recognised majority union”, by inserting after the words “Part III”, the words “or Part IIIA”; and
- (iv) in the definition of “trade dispute” or “dispute”, by inserting after the words “Part III”, the words “or Part IIIA”;

(b) in subsection(3)—

- (i) in paragraph (e), by deleting the words “, in the opinion of the Board”; and
- (ii) by deleting paragraph (f);

(c) by inserting after subsection (7), the following subsection:

“ (8) Subject to section 51(5A), for the purposes of this Act, “employer” does not include a householder who employs not more than three workers in any capacity of a domestic nature, including that of a chauffeur, gardener or handyman in, or about a private dwelling house.”.

6. Part I of the Act is amended —

Part I
amended

- (a) by deleting the word “members” wherever it occurs and substituting the word “Justices”; and
- (b) by deleting the word “member” wherever it occurs and substituting in each place the word “Justice”.

7. Section 4 of the Act is amended—

Section 4
amended

- (a) in subsection (2A), by deleting the words “by the President of Trinidad and Tobago who shall in every instrument of appointment” and substituting the words “in accordance with the Constitution and whose instrument of appointment shall”; and

(b) by repealing subsection (3).

Section 5
repealed

8. Section 5 of the Act is repealed.

Section 7
amended

9. Section 7 of the Act is amended—

(a) in subsection (1)(e), by inserting after the words “this Act”, the words “or any other written law”; and

(b) in subsection (7), by inserting after the word “fines”, the words “not exceeding seventy-five thousand dollars”.

Section 22A
inserted

10. The Act is amended by inserting after section 22, the following section:

“Qualifications
of Secretary
and
Examiners 22A.(1) The Secretary of the Board shall be a person with qualifications, preferably a Master’s degree in industrial relations, law or social sciences.

(2) The officers of the Board shall include persons appointed as Examiners who shall have qualifications in industrial relations, law, accountancy or social sciences.”.

Section 23
amended

11. Section 23 of the Act is amended—

(a) in subsection (1), by deleting the word “The” and substituting the words “Except as otherwise provided in this Act, the”; and

(b) in subsection (5), by deleting from the words “a majority” to the end and substituting the words “the Chairman and at least three other members, one of whom shall be a member appointed under section 21(3)(b)(iii).”.

Section 26
amended

12. Section 26(4) of the Act is amended by deleting the words “the Chairman and five other members” and substituting the words “four members, including one member appointed under section 21(3)(b)(i), one member appointed under section 21(3)(b)(ii) and one member appointed under section 21(3)(b)(iii)”.

13. Section 32 of the Act is amended—

Section 32
amended

- (a) in subsection (1), by deleting the word “expeditiously” and substituting the words “, within six months of the date of the application,”; and
- (b) by inserting after subsection (2), the following subsection:

“ (2A) An application under subsection (2) shall be published in the *Gazette* and in at least two daily newspapers circulating in Trinidad and Tobago.”.

14. Section 34 of the Act is amended—

Section 34
amended

- (a) by repealing subsection (2) and substituting the following subsections:

“ (2) Where there has been an objection by an employer, another trade union or the Registrar of trade unions that—

- (a) the claim made by a union seeking to be recognized is false; and
- (b) the accounting of the union is false;
- (c) the union has filed false membership records; or
- (d) there has been some other allegation of irregularity in the operation of the union,

the Board shall, upon being satisfied that the trade union has answered the objection in accordance with this Act, the Rules and the Regulations made hereunder, certify as the recognized majority union, that union which has the greatest support of the workers,

determined by preferential ballot, being in any event more than fifty per cent of those workers.

(2A) An objection in subsection (2) shall be filed not later than twenty-eight days from the date of the application for certification of recognition.

(2B) In this section, the expression “claim by a union seeking to be recognized” means the claim made by a trade union seeking to be recognized under Part III, that it has on the relevant date more than fifty per cent of the workers comprised in an appropriate bargaining unit as members in good standing.”;

(b) in subsection (3)—

(i) by deleting the words “All questions as to membership in good standing” and substituting the words “For the purpose of granting recognition to any union, all questions as to membership in good standing and as to who is a worker”; and

(ii) in paragraph (d), by deleting the words “should be considered” and substituting the word “is”; and

(c) by inserting immediately after subsection (3), the following subsection:

“ (3A) A determination in respect of any matter referred to in subsection (3) shall be made within six months of the date on which the application for certification of recognition was made.”.

Section 35
amended

15. Section 35 of the Act is amended by deleting the word “Part” and substituting the word “Act” and deleting the words “Part IV” and substituting the words “this Act”.

16. Section 40 of the Act is amended by deleting the word “Part” and substituting the word “Act”. Section 40 amended

17. Section 41 of the Act is amended by— Section 41 amended

(a) inserting after the word “Board”, wherever it occurs, the words “or Chairman as provided for in Part IIIA”; and

(b) inserting after the words “37(2)”, the words “or 42D”.

18. The Act is amended by inserting after Part III, the following Part: Part IIIA inserted

“PART IIIA

CERTIFICATION OF RECOGNITION FOR SHORT-TERM PROJECTS

Application for short-term certification 42A.(1) A trade union that desires to obtain a certification of recognition under this Part for the purposes of a short-term project shall apply to the Chairman of the Registration Recognition and Certification Board in writing in accordance with this Part.

(2) An application for certification under this Part shall—

(a) be in the prescribed form;

(b) describe the proposed bargaining unit in respect of which certification is sought; and

(c) describe the short-term project in respect of which certification is sought.

(3) A union making an application under subsection (1) shall serve a copy of the application on the employer.

(4) In determining an application made under subsection (3), the Chairman shall have regard to matters specified in section 42C.

(5) An application for certification of recognition under this Part, once made, shall not be withdrawn except with the consent of the Chairman.

(6) In this part—

“heavy construction industry” means services in the construction industry involved in the construction of heavy engineering and heavy industrial projects, including the construction of chemical and petrochemical plants, complexes or facilities, metallurgical plants and smelters, cement plants, processing plants, petroleum refineries, natural gas liquefaction or processing plants, offshore platforms and associated ports, quays and harbours, power plants and hydroelectric plants and high-pressure oil and gas pipeline construction and roads, highways and transportation infrastructure including railways or tramways;

“relevant date” means such date as the Chairman considers appropriate for the purpose of determining any matter before him under this Part; and

“short-term project” means a project in the heavy construction industry,

which is scheduled to be completed within five years of its commencement.

Bargaining
unit
appropriateness

42B.(1) The Chairman shall, on any application under section 42A, first determine the bargaining unit he considers appropriate in the circumstances and in so doing the Chairman shall have regard to—

- (a) the community of interest between workers in the proposed bargaining unit, including work location and methods and periodicity of payment therefor;
- (b) the nature and scope of the duties exercised by the worker in the proposed bargaining unit;
- (c) the views of the employer and the trade union concerned as to the appropriateness of the bargaining unit;
- (d) the historical development, if any, of collective bargaining in the industry or business to which the proposed bargaining unit belongs; and
- (e) such other matters as the Chairman may consider to be conducive to good industrial relations.

(2) In considering the appropriateness of a bargaining unit, the Chairman shall not be restricted by the terms of the application under section 42A(2) and may, notwithstanding such terms, determine the bargaining unit most appropriate for the workers of the employer in accordance with subsection (1).

Chairman to
certify short-
term projects

42C. (1) Notwithstanding sections 23 and 34(1), the Chairman shall certify as the recognized majority union, any trade union which he is satisfied has on the relevant date, the highest percentage, being not less than thirty-three and one-third per cent of the workers comprised in the appropriate bargaining unit as members in good standing.

(2) The Chairman shall determine an application for certification made under this Part within twenty-eight days of the receipt of the application.

Effect of
short-term
certificate

42D. (1) A certificate issued under this Part shall have the effect of a certificate issued under Part III.

(2) Notwithstanding section 43, the Court may, subject to section 46, register any collective agreement negotiated by a recognized majority union certified under this Part for such period as deemed necessary.

Issue and
contents of
short-term
certificate

42E. (1) A The Chairman shall issue a certificate to the union and to the employer in every case in which he certifies a trade union as the recognized majority union.

(2) A certificate issued under this Part shall contain a statement of the following particulars:

- (a) the name of the employer and of the trade union which has been certified;
- (b) the category or categories, if any, of workers comprised in the bargaining unit;
- (c) the number of workers comprised in the bargaining unit at the relevant date;

- (d) the name and duration of the project in respect of which the trade union is certified; and
- (e) such other matters as may be prescribed.

Cancellation of short-term certification 42F. Members aggrieved by the representation of a union recognized under this Part, may petition the Court in accordance with Part VA to cancel a certificate of recognition granted under this Part or for any other relief as the Court may determine.

Treatment of short-term projects 42G. For the purposes of the settlement of trade disputes, short-term projects shall be treated as essential services.”.

19. (1) Part V of the Act is amended by deleting the word “Minister” wherever it occurs and substituting the words “Chief Conciliator-Mediator of CAMS”.

(2) Subsection (1) shall not apply to section 65 of the Act.

20. Section 51 of the Act is amended—

Section 51 amended

(a) in subsection (1)—

- (i) in paragraph (c), by deleting the words “in good standing,” and substituting the words “; or”; and
- (ii) by inserting after paragraph (c), the following paragraph:

“(d) a person referred to in section 2(3)(e) or a trade union not certified as having recognition at his place of employment if the dispute is of a type specified in subsection (5),”;

(b) in subsection (3)—

- (i) in deleting the words “six months” and substituting the words “two years”; and

- (ii) by deleting the words “save that the Minister may, in any case where he considers it just, extend the time during which a dispute may be so reported to him”;
- (c) by repealing subsection (4);
- (d) by inserting after subsection (5), the following subsection:
 - “ (5A) Subsection (5) applies to all employers, including a householder who employs one or more workers in any capacity of a domestic nature, including that of a chauffeur, gardener or handyman in, or about a private dwelling house.”; and
- (e) by repealing subsection (6) and substituting the following subsection:
 - “ (6) Where, in any trade dispute, there is a question or difference between an employer and a trade union as to whether a person is a “worker” within the meaning of subsection (2), the question or difference shall be treated as one of the unresolved issues of the dispute and the question or difference and the matter to which it relates shall be referred to the Court for determination.”.

Section 63
amended

21. Section 63 of the Act is amended in—

- (a) subsection (1)(b), by deleting the words “and, in addition to any other penalty under subsection (2), the Court may order the cancellation of its certification of recognition, if any”; and
- (b) subsection (2), by deleting the words “twenty” and “ten” and substituting the

words “two hundred” and “one hundred” respectively.

22. Section 67 of the Act is amended in—

Section 67
amended

(a) in subsection (3), by deleting—

- (i) the words “on summary conviction”;
- (ii) the word “forty” and substituting the word “one hundred”; and
- (iii) the words “and to imprisonment for three years”;

(b) in subsection (4), by deleting—

- (i) the words “on summary conviction”;
- (ii) the word “one” and substituting the word “twenty-five”; and
- (iii) the words “and to imprisonment for six months”;

(c) in subsection (5)—

- (i) by inserting after the word “service” where it first occurs, the words “, other than in the Health Service,”;
- (ii) by deleting the words “on summary conviction”; and
- (iii) in paragraph (a), by deleting—
 - (A) the word “twenty” and substituting the word “seventy-five”; and
 - (B) the words “and the Board may cancel the certification of recognition under Part III”;
- (iv) in paragraph (b), by deleting—
 - (A) the word “ten” and substituting the word “fifty”;

- (B) the words “and to imprisonment for twelve months”; and
 - (C) the words “conviction therefor” and substituting the words “being found liable under this paragraph”; and
- (v) in subsection (c), by deleting—
- (A) the word “two” where it first occurs and substituting the word “twenty-five”; and
 - (B) the words “and to imprisonment for two years”;
- (d) by inserting after subsection (5), the following subsections:
- “ (5A) A trade union or other organisation, the holder of an office in a trade union or other organisation or any other person who calls for, or takes industrial action, or causes industrial action to be taken in the Health Service, is liable—
- (a) in the case of a trade union or other organisation to a fine of one hundred and fifty thousand dollars;
 - (b) in the case of the holder of an office in a trade union or other organisation to a fine of one hundred thousand dollars and such person shall be disqualified from holding office in any trade union or other

organisation for a period of five years after being found liable under this subsection; or

- (c) in the case of an individual who is not the holder of an office in a trade union or other organisation to a fine of fifty thousand dollars.

(5B) Offences under this section shall be tried by the Court.”.

23. Section 68 of the Act is amended—

Section 68
amended

(a) in subsection (1), by deleting—

- (i) the words “on summary conviction”;
- (ii) the word “ten” and substituting the word “forty”; and
- (iii) the words “and to imprisonment for eighteen months”;

(b) in subsection (2), by deleting—

- (i) the words “on summary conviction”;
- (ii) the word “ten” and substituting the word “thirty”;
- (iii) the word “five” and substituting the word “twenty”; and
- (iv) the words “and to imprisonment for one year”;

(c) in subsection (3), by deleting—

- (i) the words “on summary conviction”;
- (ii) the words “five hundred” and substituting the words “five thousand”; and

(iii) the words “and three months’ imprisonment”; and

(d) by inserting after subsection (3), the following subsection:

“ (4) Offences under this section shall be tried by the Court.”.

Parts VA and VB inserted

24. The Act is amended by inserting after Part V, the following Parts:

“PART VA

CANCELLATION OF CERTIFICATE OF RECOGNITION AND OTHER SANCTIONS FOR FAILURE TO REPRESENT A MEMBER OR WORKER

Duty to provide proper representation 70A. It shall be duty of every certified recognized majority union to properly represent every worker in every bargaining unit for which it is certified as the recognized majority union.

Petition for cancellation of recognition 70B. Subject to this Part, a trade union member or a worker of a designated bargaining unit aggrieved by the representation or non-representation of a recognized majority union may petition the Court to seek the cancellation of the certificate of recognition of the trade union or for such other sanctions as the Court deems fit on the grounds that the union has—

- (a) failed to represent the member or worker of the bargaining unit; or
- (b) been negligent in its representation of the member or worker of the bargaining unit.

Form of petition 70C.(1) Where there is a trade dispute and—

- (a) the union has failed to give to its member or worker of the bargaining unit written reasons as

to why it is not reporting the dispute within six months of the issue giving rise to the dispute; or

- (b) the time for reporting the dispute has expired without the union giving reasons or taking steps to report it; and
- (c) the dispute concerns the terms and conditions of employment of a member or a worker of a bargaining unit for which the trade union has recognized majority union status, the petition shall be signed by no less than twenty-five per cent of the members of the union or the workers of the bargaining unit.

(2) Notwithstanding subsection (1), the Court shall not entertain a petition where, in the opinion of the Court—

- (a) the union is actively engaged in collective bargaining, conciliation and mediation in accordance with this Act;
- (b) the dispute has been certified as an unresolved dispute within the meaning of section 59;
- (c) strike or lock-out, whether or not in accordance with Part V, has been taken; or
- (d) the dispute is before the Court.

(3) Where there is a trade dispute within the meaning of this Act and—

- (a) the recognized majority union has failed to give the member or worker of the bargaining unit for which it has been certified as having recognition, written

reasons as to why it is not reporting the dispute within six months of the issue giving rise to the dispute; or

(b) the time for reporting the dispute has expired—

(i) without giving reasons for not reporting; or

(ii) for taking steps to report the dispute; and

(c) the dispute concerns the rights of employment of a member or worker of the bargaining unit,

the petition shall be signed by all of the members or workers of the bargaining unit who are aggrieved.

(4) A petition shall—

(a) be in the prescribed form;

(b) state the grounds for the petition; and

(c) be delivered to the Registrar of the Court.

Procedure upon receipt of petitions

70D. Where a petition has been received under this Part, the President of the Court may, notwithstanding Part V, invoke such procedure for settling the dispute by means of conciliation as he may consider advisable, except that where the President is satisfied that no useful purpose would be served by conciliation, he may refer the matter for hearing by the Court.

Powers of Court under this Part

70E. (1) Where a matter is referred for hearing by the Court under this Part, the Court shall make a determination on the matter not later than three months from the date of the referral of the matter.

(2) In accordance with the powers conferred under this Act, the Court may, in relation to any matter referred to it under this Part, make such order as it considers equitable and just.

PART VB

THE CONCILIATION AND MEDIATION SERVICE

Establishment and Procedure

Establishment
of CAMS

70F.(1) For the purposes of this Act, there is established an Authority to be known as “the Conciliation and Mediation Service”.

(2) CAMS shall be managed by a Council which shall consist of fourteen members appointed by the President as follows:

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) a member appointed on the advice of the Minister with responsibility for finance;
- (d) a member appointed on the advice of the Minister with responsibility for trade;
- (e) a member appointed on the advice of the Minister with responsibility for energy;
- (f) a member appointed on the advice of the Attorney General;
- (g) a member appointed on the advice of the Chief Secretary of the Tobago House of Assembly;
- (h) three members appointed from among persons with qualifications and experience in industrial

relations, human resource management, employment law, accountancy, economics and such other social sciences as the Minister considers appropriate;

- (i) two members appointed after consultation with organisations most representative of employers; and
- (j) two members appointed after consultation with organisations most representative of workers.

Tenure and
remuneration
of members of
the Council

70G. (1) The Chairman, Deputy Chairman and their members of the Council shall hold office in accordance with the terms set out in their instruments of appointment.

(2) The appointment of a member of the Council may be full-time or part-time and the President may, with the consent of the member, vary his appointment from full-time to part-time or *vice versa*.

(3) A member of the Council shall be appointed for a term not exceeding five years and shall be eligible for reappointment, but the appointment of members of the Council shall not all expire at the same time.

(4) A member of the Council may at any time resign his office by instrument in writing, addressed to the President.

(5) A member of the Council shall be paid such remuneration and allowances as are determined by the President.

(6) The remuneration and allowances payable under this section shall be a charge on the Consolidated Fund.

(7) The President may remove a member of the Council from office where he is satisfied that the member—

- (a) has been absent from meetings of the Council for a period longer than six consecutive months without the permission of the Council;
- (b) has become bankrupt or has compounded with his creditors;
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of being a member.

(8) The appointment, removal or resignation of a member of the Council shall be published in the *Gazette*.

Procedures of,
co-opting to and
Committees of
the Council

70H. (1) The Council shall determine its own procedures including the quorum necessary for its Meetings.

(2) The Council may co-opt any person to attend any particular meeting of the Council for the purpose of assisting or advising the Council, but a co-opted person shall not have any right to vote.

(3) The Council may appoint a committee to—

- (a) examine and report to it on any matter arising out of or connected with any of the functions of CAMS; or
- (b) assist it in its business and may, for that purpose, delegate such duties and powers as it may consider necessary to that committee.

(4) A committee appointed under subsection (3) shall consist of at least one member of the Council.

(5) Where persons not being members of the Council are members of a committee, the Council may, with the prior approval of the Minister, appoint them on such terms and at such remuneration as the Minister may approve.

(6) The Council may reject the report of a committee appointed under subsection (3)(a) or adopt it either wholly or with such modifications, additions or adaptation as the Council may think fit.

Functions of
CAMS

70I. (1) The functions of CAMS shall be—

- (a) to promote the improvement of industrial relations and in particular to encourage the extension of collective bargaining and its development, where necessary, to reform the collective bargaining machinery including the timely negotiation and registration of collective agreements;
- (b) to propose draft regulations for the conduct of collective negotiations, including time limits, to ensure that agreements are registered during their contractual period;
- (c) to provide conciliation or mediation services subject to Part V to bring about a settlement of a trade dispute which exists, is reported or apprehended;

- (d) to provide conciliation or mediation services by a servant or officer known as a Conciliation or Mediation Officer or a person other than an officer or servant of CAMS appointed by the Council;
- (e) to provide general advice or guidance to employers, employers' organizations, workers and trade unions, and such advice or guidance as it thinks appropriate on matters concerned with industrial relations or employment policies after considering rulings of the Court and internationally acceptable principles of employment law and industrial relations and the Court may consider such general advice or guidance as evidence of good industrial relations practice in its determination of matters;
- (f) to publish such general advice and guidance on matters concerned with industrial relations and employment policies in the *Gazette* and in at least one daily newspaper circulating in Trinidad and Tobago;
- (g) to inquire, if it thinks fit, into any question relating to industrial relations in any particular industry or in any particular undertaking or part of an undertaking; and
- (h) subject to subsection (3), to publish the findings of an inquiry under this section together with any advice given by CAMS.

(2) A publication under section 70i(1)(f) shall be deemed to be a notice thereof to all employers, employers' organization, workers, employees and trade unions.

(3) CAMS shall only publish the findings of an enquiry where the publication is desirable for the improvement of industrial relations generally or in connection with the specific questions inquired into after due consideration of the views of the parties concerned, if it thinks fit.

(4) In the exercise of its functions, CAMS shall not be subject to directions from any person or authority.

CAMS may establish multiple offices in other locations

70J. (1) CAMS may maintain offices in such of the major centres of employment in Trinidad and Tobago, as it thinks fit, for the purpose of discharging its functions under this Act or any other written law.

Estimates of expenditure

70K. (1) CAMS shall, at least six months before the announcement of each financial year, submit to the Minister for his approval, estimate of expenditure in such form as the Minister may prescribe in accordance with GAAP.

(2) CAMS shall, at such time as the Minister directs, furnish him with any further information in relation to the estimates he may require.

(3) Subject to the provisions of the Constitution and the Exchequer and Audit Act, the estimates of expenditure, as approved by the Minister, shall be the expenditure budget of CAMS for the financial year to which it relates.

Financial year 70L. (1) The Financial year of CAMS shall be the period of twelve months beginning on the first day of October in any year to the thirtieth day of September in the following year, but the period from the date of commencement of the Act to the end of the September next following shall be deemed to be the first financial year.

(2) CAMS may, with the approval of the Minister with responsibility for finance, vary its financial year.

Accounts and audit 70M. (1) CAMS shall keep proper books of accounts and records in accordance with GAAP, of all moneys received and expended and shall record the matters in respect of which such sums were received and expended.

(2) Within three months after the end of the financial year, CAMS shall cause to be prepared in respect of that year—

- (a) a report setting out the activities of the Authority; and
- (b) financial statements prepared in accordance with GAAP and any other statement as required by the Minister with responsibility for finance.

(3) In instances where the standards included in GAAP are inappropriate or inadequate, the Treasury shall provide the appropriate instructions.

(4) The accounts of CAMS are public accounts for the purposes of section 116 of the Constitution.

(5) As soon as accounts of CAMS have been audited, the Auditor General shall

submit his report in accordance with section 116 of the Constitution and forward a copy of the report to the Minister.

(6) Nothing in this section precludes the Auditor General or an Auditor engaged by the Board or the Minister with responsibility for finance from performing a management or comprehensive audit of the activities of CAMS.

Annual report 70N. CAMS shall submit a report annually to Parliament within three months of the calendar year on the activities of CAMS from the previous year commencing one year after the coming into operation of the Act.

Employment of staff 70O. (1) Subject to this section, CAMS may—

- (a) appoint such employees as it considers necessary for the performance of its functions;
- (b) fix qualifications and terms and conditions of service for employees, except that salaries in excess of three hundred thousand dollars per annum shall be subject to the approval of the Minister; and
- (c) engage persons having suitable qualifications and experience in employment relations, employment law and other relevant professions as conciliators, mediators and consultants on such terms and conditions as are approved by the Minister.

(2) The Council shall appoint the following officers of CAMS:

- (a) an Executive Director who shall be responsible for the day to day operation of CAMS and who may exercise such functions as may be delegated to him by the Council;
- (b) a Deputy Executive Director who shall assist the Executive Director in the day to day operation of the Council and who may exercise such functions as may be delegated to him by the Council;
- (c) a Chief Conciliator-Mediator who shall be the Head of Technical Services, including conciliation and mediation services;
- (d) a Director of Legal and Industrial Relations Research;
- (e) such other officers who, in the opinion of the Council, have the necessary training, qualifications and expertise to assist in the effective management and delivery of the services of CAMS.

(3) The Executive Director shall, where requested by the Minister, provide the Minister with information about the activities of CAMS or any other related matter.

(4) CAMS may employ persons to perform specific tasks that CAMS considers necessary for the due performance of its functions and exercise of its powers, on such terms and conditions as are agreed between CAMS and the person and subject to such maximum limit of remuneration as the Minister may by Order determine.

(5) The salary, allowances and other terms and conditions of the Executive Director, Deputy Executive Director and the Chief Conciliator-Mediator shall be reviewed by the Salaries Review Commission in accordance with section 141 of the Constitution.

Transfer of
public officers
to CAMS

70P. (1) An officer in the public service may, with the approval of the appropriate Service Commission, consent to be appointed on transfer to the service of CAMS upon such terms and conditions as are acceptable to him or his trade union and CAMS.

(2) An officer referred in subsection (1) shall, upon transfer, have preserved his superannuation and pension rights accruing at the time of transfer.

Section 78
amended

25. Section 78 of the Act is amended by deleting the words “sections 67 to 69 and” and substituting the words “section 69 or”.

Section 79
amended

26. Section 79 of the Act is amended—

(a) in subsection (3)—

- (i) by deleting the words “or the Rules made thereunder”;
- (ii) by deleting the words “on summary conviction of ten” and substituting the words “of fifty”; and
- (iii) by deleting the words “after conviction” and substituting the words “after being found liable”; and

(b) by inserting after subsection (3), the following subsections:

“ (4) Regulations under subsection (1) may make provision for matters concerning persons employed by a householder in any capacity of a

domestic nature, including that of a chauffeur, gardener or handyman in, or about a private dwelling house.

(5) Offences created under the Regulations shall be heard by the Court.”.

27. Section 82 of the Act is amended—

Section 82
amended

(a) in subsection (1), by inserting after—

(i) the word “Economic”, the word “Legal”; and

(ii) the word “Industrial”, the word “Relations”;

(b) by inserting after subsection (3), the following subsections:

“ (4) The staff of the Office of Economic, Legal and Industrial Relations Research shall include the following:

(a) an Executive Director and a Deputy Executive Director, both of whom shall have at least an advance degree in law, industrial relations or economics;

(b) a Head of Legal Research;

(c) a Statistician;

(d) a Labour Economist; and

(e) such other officers, including officers with training, qualifications or experience in law, industrial relations and social science, as are required to assist in the effective management and delivery of the

Passed in the Senate this day of , 2015.

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of Senators.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 5 of 2015

FIFTH SESSION
TENTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Industrial
Relations Act, Chap. 88:01

Received and read the

First time

Second time

Third time