

LAWS OF GUYANA

PUBLIC UTILITY UNDERTAKINGS AND PUBLIC
HEALTH SERVICES (ARBITRATION) ACT

CHAPTER 54:01

Act
44 of 1956
**Amended
by Act 14
of 2009**

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Note

on

Subsidiary Legislation

This Chapter contains no subsidiary legislation.

**Note
on
Repeal**

This Act repealed Ordinance 5 of 1942.

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CHAPTER 54:01

**PUBLIC UTILITY UNDERTAKINGS AND PUBLIC HEALTH SERVICES
(ARBITRATION) ACT**

ARRANGEMENT OF SECTIONS

SECTION

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SCHEDULE—Services.

44 of 1956

14 of 2009

An Act to provide an arbitration Tribunal for the settlement of disputes in essential services and to prohibit strikes and lock-out in such services , in certain circumstances, and for purposes in connection therewith.

[17TH NOVEMBER, 1956]

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Short title and
application.
14 of 2009

1. (1) This Act may be cited as the **Essential Services (Arbitration) Act**.

(2) This Act shall apply to trade disputes in any of **the essential services** tendered by whomsoever to the public which are particularised in the Schedule as amended from time to time by order of the Minister.

Interpretation.

2. (1) In this Act—

“employer” means any person who has entered into a contract to employ any employee and includes the agent, foreman, manager or factor of such person;

“employee” means any person who has entered into or works under a contract with an employer, whether the contract be by way of manual labour, clerical work or otherwise, be expressed or implied, oral or in writing and whether it be a contract of service or of apprenticeship or a contract personally to execute any work or labour;

“lock-out” means the closing of a place of employment, or the suspension of work or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

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

conditions of or affecting employment;

“trade dispute” means any dispute or difference between employers and workmen, or between workmen connected with the employment or non-employment, or the terms of the employment or with the conditions of labour of any person;

“trade union” means a trade union duly registered under the Trade Unions Act.

c. 98:03

(2) This Act shall apply to persons employed by or under the Government in the same way as if they were persons employed by or under a private person.

Trade dispute procedure.

3. (1) If any trade dispute exists or is apprehended in any service, or section of a service, that dispute may be reported to the Minister by—

- (a) an organisation of employers, on behalf of employers who are parties to the dispute and are members of that organisation;
- (b) an employer, where the dispute is between that employer and workers in the employment of that employer; or
- (c) an organisation of workers, on behalf of workers who are parties to the dispute and are members of that organisation;

and the decision of the Minister as to whether a dispute has been so reported to him or not and as to the time at which a dispute has been so reported shall be conclusive for all purposes. A certificate under the hand of the Permanent

Secretary containing such information shall be conclusive evidence in all courts of the facts therein contained.

(2) Where any dispute is reported to the Minister under subsection (1) by any person or organisation other than an organisation such as is mentioned in subsection (4), then the Minister shall consider the dispute and—

- (a) if he is of the opinion that there exists suitable machinery of negotiation or arbitration for the settlement of that dispute and that all practicable means of reaching a settlement through that machinery have not been exhausted he shall refer the matter for settlement to that machinery; so, however, that where a matter has been so referred for settlement and there is a failure to reach a settlement, or in the opinion of the Minister a settlement is unduly delayed, the Minister may cancel the reference and substitute therefor a reference to the Tribunal; or
- (b) if the Minister is of the opinion that no such suitable machinery exists as is mentioned in paragraph (a), he shall take such steps as seem to him expedient to promote the settlement of the dispute and may, if he thinks fit, refer the matter for settlement to the Tribunal.

(3) Where steps to promote the settlement of any dispute have been taken by the Minister under subsection (2) (otherwise than by means of reference to the Tribunal) and these steps have not resulted in a prompt settlement of the

dispute, the Minister shall refer the dispute for settlement to the Tribunal within ten days from the date on which the dispute was first reported to him as aforesaid, unless in his opinion, the special circumstances of the case make it necessary or desirable to postpone such a reference.

(4) Where any dispute is reported to the Minister solely by an organisation which, in his opinion—

- (a) does not habitually take part in negotiations regarding employment and the terms of employment and the conditions of labour in the service or section of the service in which the dispute exists or is apprehended; and
- (b) does not represent a substantial proportion of the employers or workers, as the case may be, engaged in the service or section of the service in which the dispute exists or is apprehended,

the Minister shall consider the dispute and may take such steps as seem to him expedient to promote a settlement of the dispute and may, if he thinks fit, refer the matter for settlement to the Tribunal.

(5) Where the Minister considers it expedient to refer any dispute to the Tribunal under subsection (4), he shall do so within one month from the date on which the dispute was first reported to him unless, in his opinion, the special circumstances of the case make it necessary or desirable to postpone such a reference.

(6) Whenever any trade dispute is reported to the Minister by an organisation such as is mentioned in subsection (4) the Minister shall promptly inform the

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organisation that, in his opinion, it is such an organisation.

(7) Any agreement, decision or award made by virtue of the foregoing provisions of this section shall be binding on the employers and workers to whom the agreement, decision or award relates and, as from the date of such agreement, decision or award or as from such date as may be specified therein not being earlier than the date on which the dispute to which the agreement, decision or award relates first arose, it shall be an implied term of the contract between the employer and workers to whom the agreement, decision or award relates that the rate of wages to be paid and the conditions of employment to be observed under the contract shall be in accordance with such agreement, decision or award until varied by a subsequent agreement, decision or award.

Constitution of
Arbitration
Tribunal.
14 of 2009

4. For the purpose of settling trade disputes which cannot otherwise be determined, there shall be constituted **an Essential Services Arbitration Tribunal**, in this Act referred to as “the Tribunal”.

Composition of
the Tribunal.

5. The Tribunal shall consist of the following persons appointed by the Minister, that is to say, three appointed members, one of whom shall be appointed Chairman, and two other members one of whom shall be chosen to represent employers and the other to represent employees.

Panels for
selection of
members.

6. Panels of persons chosen to represent employers and employees respectively shall be constituted by the Minister after consultation with organisations representative of employers and employees respectively and the members chosen to represent employers and employees at any sitting of the Tribunal shall be selected from those panels by the Minister.

Terms of office
of members.

7. The appointed members of the Tribunal shall hold office for a term not exceeding two years but shall be eligible

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- for re-appointment.
- Appointment of secretary and officers. **8.** There shall be a secretary to the Tribunal and such other officers and servants of the Tribunal as the Minister may consider necessary for carrying out the purposes of this Act.
- Quorum. **9.** The member chosen to represent employers, the member chosen to represent employees and one other member present at any sitting of the Tribunal shall constitute a quorum.
- Decision of Tribunal. **10.** Where the members of the Tribunal are evenly divided in respect of their decision the matter shall be disposed of as the Chairman or other member presiding shall determine.
- Regulation of Tribunal proceedings. **11.** Save as otherwise expressly provided in this Act, the Tribunal may regulate its procedure and proceedings as it thinks fit.
- Prohibition of lock-outs and strikes. **12.** An employer shall not declare or take part in a lock-out and a worker shall not take part in a strike in connection with any trade dispute unless—
- (a) the dispute has been reported to the Minister under section 3 by a person or an organisation other than an organisation such as is mentioned in subsection (4) of that section;
 - (b) one month has elapsed since the date of the report; and
 - (c) the dispute has not during that time been referred by the Minister for settlement in accordance with that section.

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References to
Tribunal for
advice.

13. The Minister may refer to the Tribunal for advice any matter relating to or arising out of a trade dispute or trade disputes which, in the opinion of the Minister ought to be so referred; and the Tribunal shall enquire into the matters referred to it and report thereon to the Minister.

Award to be
made without
delay and
may be
retrospective.

14. (1) The Tribunal shall make its award or furnish its advice as the case may be to the Minister without delay and where practicable within twenty-one days from the date of reference.

(2) Subject to section 3(7) an award on any matter referred to the Tribunal for settlement may be made retrospective to such date as the Tribunal shall determine, and the decision of the Tribunal as to such date shall be conclusive.

Interpretation
of award.

15. If any question arises as to the interpretation of any award of the Tribunal, the Minister or any party to the award may apply to the Tribunal for a decision on such question and the Tribunal shall decide the matter after hearing the parties or without such hearing provided the consent of the parties has first been obtained. The decision of the Tribunal shall be notified to the parties and shall be binding in the same manner as the decision in an original award.

Evidence.

16. For the purpose of dealing with any matter referred to it, the Tribunal shall have all the powers of the High Court to summon parties and witnesses and to compel the production of any document, so as to elicit all such information as in the circumstances may be considered necessary, without being bound by the rules of evidence in civil or criminal proceedings:

Provided always that, if any witness objects to answering any question or to producing any document on the ground that it will tend to incriminate him or on any other lawful

ground, he shall not be required to answer such question or to produce such document, nor shall he be liable to any penalties for refusing to do so.

Appearance by
Counsel or
Solicitor.

17. Any interested person may appear by Counsel or Solicitor or a trade union representative in any proceedings or enquiry under this Act before the Tribunal.

Expenses

18. (1) It shall be lawful for the Minister responsible for finance to authorise payment to any member of the Tribunal appointed under this Act of such remuneration as shall be determined by him.

(2) Any expenses incurred in carrying out the provisions of this Act and approved of by the Minister responsible for finance shall be paid out of moneys provided by Parliament

Offences and
penalties.
[6 of 1997
14 of 2009]

19. (1) Every person who contravenes or fails to comply with section 12 commits an offence and is liable on summary conviction, the following,

(a) A fine not exceeding thirty thousand dollars and imprisonment for two months; and

(b) If the offence is a continuing one, a further fine not exceeding one thousand dollars for every day or part of a day during which the offence continues.

Provided that no prosecution for such a contravention shall be instituted without the consent of the Director of Public Prosecutions.

(2) The provisions of this Act relating to an employer shall, when such employer is a company, be deemed to include every director, manager, secretary, attorney or other officer of the company unless any such director, manager, secretary, attorney or other officer shall satisfy the court that the lock-out was declared or taken part in without either his knowledge or assent.

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Display of list of
services.

20. There shall be displayed at or near every place of work where any of the services set out in the Schedule is carried on, a list containing such extracts of this Act as the Minister may direct.

SCHEDULE

Essential Services

s.
1[Gaz.
9/10/1965
Nt. 329F
Gaz. 10/8/1968
Nt. 122B
Gaz. Nt.
6/10/1970
14 of 2009]

1. Any dockage, wharfage, discharging, loading or unloading of vessels or related service.
2. Any direct or indirect production, storage, distribution, sale, delivery or supply of potable water.
3. Any direct or indirect generation, transmission, sale or supply of electricity.
4. Any service essential to the continued provision of telecommunications.
5. Any health care or related service operated by-
 - (i) the Georgetown Public Hospital Board;
 - (ii) any other public corporation established under the Public Corporations Act 1998 (No. 21 of 1988)
 - (iii) the public hospital;
 - (iv) the Government; or
 - (v) a local authority.

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6. any air traffic control service.
7. any service provided by the Transport and Harbours Department or the Maritime Authority.
8. any service related to drainage and irrigation.
9. any cemetery, scavenging or solid waste services of a municipality.
10. the marketing and distribution services or all petroleum and allied products.”

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