

## 2. Wage Rates.

The new Bill follows the provision of the 1937 Act in that when deciding upon minimum wage rates for employers or classes of employees (24(1b)) or the number of employees of any class who may be employed in proportion to the total (24(1b)), industrial councils may make no discrimination on the basis of race or colour. (24(3)). From here on, however, the pattern is a very different one. There is no provision making it obligatory for the Coloured branches of trade unions, or the separate Coloured unions, to be represented on industrial councils.

The 1937 Act empowered the Minister to exempt certain persons from the provisions of agreements or awards. The new Bill seeks to enable him also to exempt "classes of persons" if special circumstances exist which he considers justify this (51(1)), and for the purpose of this clause it is not specified that in the determination of "class of persons", no discrimination on the grounds of race or colour shall be made. The Bill reads "Any method of differentiation or discrimination based on sex, age, experience, length of employment or type of work or type or class of premises or area on or in which work is performed, or any other method which is deemed to be advisable may be applied" (51(9)).

The 1937 Act provided that licences of exemption were to be issued to individuals granted such exemption. The Bill empowers the Minister, instead, to publish in the Gazette a notice exempting certain persons or classes of persons (51(4)). As before, Native areas (which for the purposes of this Bill include urban locations and townships and any areas declared predominantly occupied by Natives) may be excluded from the operation of agreements or awards, as also may particular classes of work in Native areas. (51(10)).

In the 1937 Act it was specified that if an industrial council considers that the object of an agreement may be defeated by the employment of pass-bearing Natives at rates of pay or conditions other than those laid down in the agreement, it may request the Minister to declare the agreement binding also on pass-bearing Natives in the area and occupation concerned.

The Bill seeks to enable the Minister to take such action on his own initiative after consultation with the industrial council concerned. The provisions will, of course, now apply to all Africans and not only to pass-bearing Africans. (48(3)).

(It will be remembered that Section 14 (2) of the Native Labour (Settlement of Disputes) Act empowered the Minister, if he considers that any object of an order relating to Natives would otherwise be defeated, to extend its application to persons of other racial groups in the same area and occupation).

## 3. Prevention of Inter-Racial Competition.

Clause 77 (which is entirely new) provides that when the Minister considers that measures should be taken to safeguard the economic welfare of employees of any race in any undertaking, industry, trade or occupation, he may direct the Tribunal (see below) to conduct an investigation and submit a recommendation.

Assessors will be appointed as temporary non-voting members of the Tribunal to represent all interests affected; notice of the investigation will be published in the Gazette and all interested persons invited to submit representations; and the Central Native Labour Board and all industrial councils, registered trade unions and employers' organizations affected will be consulted. The Tribunal will then report



to the Minister stating whether it considers a determination should be made reserving employment in any undertaking, industry, trade or occupation in a stated area for members of a specified race (here the word "race" includes Africans). The Minister will then decide whether or not to publish the determination. Such determinations shall not apply in occupations or areas where relevant industrial council agreements have already been made, unless the council concerned is agreeable.

4. Strikes and Lock-outs.

The 1937 Act provided for compulsory arbitration (and thus prohibition of strikes) in the case of disputes which could not speedily be settled by industrial councils or conciliation boards and which affected employees engaged in the provision of water, light, power, sanitation, passenger transportation on the extinguishing of fires. In terms of the Bill, the Minister may apply these provisions also to activities connected with the processing, supply and distribution of perishable foodstuffs and of petrol and other fuels, the supply of goods and services to hospitals and similar institutions, or the maintenance of other supplies or services which he considers to be essential to the life of the community. (46(7)).

Further new provisions are that strikes or lock-outs are prohibited:

- a) unless two-thirds of the paid-up members have voted by secret ballot in favour of such action; (65(2b))
- b) during the currency of any relevant determination relating to demarcation between industries or prevention of inter-racial competition; (65(1a))
- c) within one year of the promulgation of a wage determination dealing with the matter under dispute (65(1b))

Further, industrial councils are enabled to introduce into their constitutions a provision for compulsory arbitration (65(2a)).

5. Association with Political Parties.

The Bill provides that no trade union or employers' organization shall affiliate to any political party (9(1c)), nor shall they give financial assistance to political parties or candidates for election to Parliament, Provincial Councils or Local Authorities except from a special, separate political fund financed by voluntary contributions only (9(1d-f)). Included in the definition of "political party" is any organization or group of persons which has as its object or one of its objects the influencing of public opinion to support or to oppose any political party or member thereof (9(2))

6. Industrial Tribunal. (Clause 64)

A new body to be called the Industrial Tribunal is to be established, consisting of 6 members to be appointed by the Minister. The Chairman (only) must have the qualifications required for admission as an advocate of the Supreme Court. The second member will be the deputy chairman, and the remaining four will be appointed from amongst persons nominated respectively by the United Municipal Executive and such organizations or unions as the Minister may designate representing other employers, employees in local government undertakings, and other employees. Assessor (non-voting) members may be appointed to ensure reasonable representation of all interests affected in a particular matter.

The tribunal will hear appeals from the Registrar's requirements or decisions; undertake such voluntary or compulsory arbitrations as are not being conducted by arbitrators; if requested by the Minister, determine demarcations between different undertakings and occupations; and investigate whether safe-guards against inter-racial competition should be imposed.



7. Appeals.

In terms of the 1937 Act, appeals from the Industrial Registrar's decisions might be made to the Minister and thereafter to the Supreme Court and, if desired, the Appellate Division. The Courts were empowered to examine the facts and then to lay down decisions which would be deemed to be decisions of the Minister.

In terms of the Bill, persons affected may apply to the Registrar for a statement of his reasons for a decision, and thereafter may appeal to the tribunal (16 (1)). The tribunal may decide the matter on documentary evidence, or may arrange for a hearing. (16 (2)).

There will be no appeal from any decision made by the tribunal except on questions of law (not of fact). The tribunal may of its own motion, and shall at the request of one of the parties to a dispute, reserve any question of law arising from matters before it for Supreme Court decision, and shall state such question in the form of a special case. If such case is stated at the request of one of the parties to a dispute, he must lodge security for costs. (16(5) and (6), and 64 (16)).

8. Penalties.

Penalties for persons convicted of offences under the provisions of the Act remain unchanged. There is a new sub-clause in the Bill, however, (81 (2)) empowering the Governor-General to prescribe penalties not exceeding a fine of £50 or 6 months' imprisonment for contravention of regulations issued by him under the Act.



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