

of the said matter, and until -

- (aa) any board that may be established has reported thereon to the Minister in writing; or
- (bb) a period of thirty days reckoned from the date on which the Minister has approved of the establishment of a board or such longer period as the board may fix has expired; or
- (cc) the Minister has refused to establish a board; or
- (dd) if the Minister has not within a period of thirty days reckoned from the date on which the application was lodged approved or refused to approve of the establishment of a board, the expiration of that period

whichever event occurs first, or

- (iii) if it has been decided in terms of section forty-five to refer the matter to arbitration.

(2) No registered trade union or employers' organization and no office-bearer, paid official or member of such union or organization shall call or take part in any strike or lock-out by members of the union or organization -

- (a) if the union or organization, as the case may be, is a party to an industrial council the constitution of which provides for the reference to arbitration of disputes which cannot be settled by the council, and the dispute which is the cause of the strike or lock-out has not been so referred; or
- (b) unless two-thirds of the members of the union or organization in good financial standing have voted by secret ballot in favour of such action.

(3.) Any person who contravenes the provisions of sub-section (1) or (2) shall be guilty of an offence.

Victimi-  
sation  
forbidden

66. As printed in present Act.

Secrecy  
to be  
observed

67. As printed in present Act.

Inspection  
of  
documents

68. As printed in present Act with the following amendment :-

Insert the words " , or a certificate of registration issued to a trade union, employers' organization, industrial council and a federa-

tion,' after the word 'registra' in the second line.

Publica- 69. As printed in present Act.  
tion of  
report

Assumption 70. (1) Whenever any local authority is unable  
by Minister or unwilling by reason of -  
of func-  
tions of lo- (a) any lock-out or any strike or concerted action  
cal authori- of any persons in its employ; or  
ty in cer-  
tain cir- (b) any usurpation by any un-authorized person or  
cumstances persons of any of its powers,  
to continue any service or function performed by it  
under the authority of any law, the Minister may, at the  
expense of the local authority, and after serving notice  
upon it, himself or by any person whom he may authorize  
thereto assume and, for such time as he deems fit, carry  
on the service or function and he or such authorized  
person may for that purpose enter upon any premises of  
the local authority and do all other acts necessary.

(2) The Minister or any person so authorized  
by him shall have all the powers of the local authority  
for the adequate rendering of such service and receiving  
payment therefor, and any person obstructing or hinder-  
ing the carrying out of the service or any work incident-  
al thereto shall be guilty of an offence.

(3) All expenses incurred in carrying on  
any service under this section in excess of any revenue  
received in respect thereof shall be a debt due by the  
local authority to the Minister. All rates, fees and  
other payments which would lawfully have been due by any  
person to the local authority in respect of any such  
service shall, in so far as they are not recovered by the  
Minister or person carrying on such service, be recover-  
able by the local authority from the person liable.

(4) The provisions of this section shall  
mutatis mutandis apply to any activity to which the  
provisions of section forty-six apply or have been  
applied under sub-section (7) of that section.

Alleged 71. As printed in present Act.  
partner-  
ships

Acts or 72. As printed in present Act  
omissions  
by manag-  
ers, agents,  
or employ-  
ees

False 73. As printed in present Act.  
state-  
ments

Evidence 74. As printed in present Act.

Certain defects and irregularities not to invalidate constitution or registration of trade union, employers' organization or industrial council, or agreements or awards, or Acts of industrial council or conciliation board or arbitrators or tribunal.

75. As printed in present Act.

Demarca- 76. (1) The Minister may, if he deems it expedient tion between to do so, refer to the tribunal for determination any undertakings, question as to whether - industries, trades and occupations

- (a) any employer, employee or class of employers or employees is employed in a particular undertaking, industry, trade or occupation; or
- (b) any class of business or work or any operation or process falls within a particular undertaking, industry, trade or occupation or within the jurisdiction of any registered trade union or employers' organization or industrial council; or
- (c) any wage regulating measure is applicable to any employer, employee class of employers or employees, undertaking, industry, trade or occupation.

(2) Whenever a dispute between two or more industrial councils in regard to a matter such as is referred to in sub-section (1) is settled by agreement between the councils, the terms of such agreement shall be brought to the notice of the Minister who may, if he deems it necessary to do so, cause a notice to be published in the Gazette setting out the particulars of the agreement.

(3) Any registered trade union, employers' organization, industrial council, or an employer concerned in the matter, may apply to the tribunal in the prescribed form and manner for the determination of any question such as is referred to in sub-section (1) or (2).

(4) (a) Whenever, in any court of law, a question such as is referred to in sub-section (1) is raised, the person presiding over the court may adjourn the proceedings for the purpose of consultation with the tribunal.

(b) If after such consultations, the court is satisfied that the question raised has not previously been determined by the tribunal and is one which should

be so determined, it shall refer the question to the tribunal for determination, and the proceedings in which the question was raised shall be adjourned to a date to be fixed after the question has been so determined.

(5) Upon receipt of

- (a-) a reference under sub-section (1) or paragraph (b) of sub-section (4); or
- (b) on application under sub-section (3) which in the opinion of the tribunal refers to a matter of substantial importance which is capable of determination under this section, and has not been settled by a previous determination;

the tribunal shall cause to be published in the Gazette a notice setting forth particulars of the reference or application and stating the period within which the officer with whom and the address at which any written representations shall be lodged.

(6) Upon consideration of any written representations so lodged, and after any further investigation (which may include the hearing of evidence or argument) which it deems to be necessary, the tribunal may determine the matter and shall as soon as possible thereafter advise the parties concerned and the Minister of the terms of such determination. In determining a matter under this sub-section the tribunal shall give such decisions as it deems equitable.

(7) If the Minister is of opinion that the matter dealt with in the determination is of sufficient importance, he shall cause the terms thereof to be published in the Gazette.

(8) The tribunal may by like procedure withdraw or vary any determination made under this section: Provided that a correction or clarification which in the opinion of the tribunal is of minor importance may be made without following the procedure set out in sub-section (5).

(9)(a) The tribunal, shall not, in respect of any proceedings under this section, make any order requiring any party to the proceedings to pay costs incurred by any other party, provided that the tribunal may make such order as to the payment of costs as it deems equitable if it is of opinion that the appearance or intervention in the proceedings of any party was frivolous and resulted in any other party incurring costs unnecessarily.

(b) The fees proscribed by regulation in respect of proceedings under this section shall be paid by the parties to the proceedings in such proportion as the tribunal may direct.

(10) A determination made in terms of this section shall be final and binding from the date fixed in the determination which may be a date prior or subsequent to the date of the determination.

Safe-  
guard  
against  
interracial  
competition

77. (1) Notwithstanding anything in this Act contained whenever the Minister deems it expedient in order to safeguard the economic welfare of employees of any race, he may, by notice in the Gazette, determine that in the undertaking, industry, trade or occupation and as from a date and in the area specified

by him, work of the nature therein defined shall be performed exclusively by employees of the race he specified. In defining the nature of the work to be performed by employees of a particular race the Minister may use any method of differentiation or discrimination which he may deem desirable.

(2) The Minister may, at any time, withdraw or vary the terms of any notice published in terms of sub-section (1).

(3) The Minister may, if he deems it expedient, and subject to such conditions as he may prescribe grant an exemption from any of the provisions of any such notice.

(4) Any person who employs any employee in contravention of the terms of any notice published in terms of sub-section (1) or (2) or in contravention of the conditions proscribed in any exemption granted in terms of sub-section (3) shall be guilty of an offence.

(5) For the purposes of this section the term 'employee' shall include a Native, and the term 'race' shall mean white persons, coloured persons or natives.

Freedom of 78. As printed in present Act.  
association  
of employees

Protection of 79. As printed in present Act.  
trade unions  
and employers'  
organization  
in respect of  
certain wrongful  
acts in further-  
ance of lawful  
strike and lock-out

Federations 80. As printed in present Act.  
of employers'  
organizations  
or trade unions.

Regulations 81 As printed in present Act.

Penalties 82. As printed in present Act.

Jurisdiction 83. As printed in present Act.  
of Magistrate's  
courts.

Section 358 84. As printed in present Act.  
of Act 31 of  
1917, not to  
apply to certain  
offences under  
this Act.

Note:-

There will be consequential amendments to certain sections quoted in this draft by reference to the present Act.

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