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- (b) refuse to engage a person, or dismiss, penalise or discriminate against any employee on the ground that, at the time of applying for an engagement, he was or was not a member of a trade union or of a particular trade union or other organisation of employees; or
- (c) dismiss, penalise or discriminate against an employee on the grounds that such employee-
 - (i) has been or is a complainant or a witness or has given evidence in any proceedings, whether instituted against the employer before the Court or any other court;
 - (ii) is entitled to a reward, benefit or compensation against the association or the class of employers to which such employer belongs or against any other person, in consequence of a decision made by a Court in his favour or in favour of a trade union or the class of employees to which such employee belongs;

(3) No employer or organisation of, or representing, employers, or any person acting on the employers' or organisations' behalf, shall render financial or other assistance to any trade union or any officer with the object of exercising any control over or influence in the activities of such trade union.

(4) An employee who has reasonable cause to believe that the employees' services have been terminated or that the employee has suffered any other penalty or disadvantage for exercising an employees' rights as specified in this section may-

- (a) within thirty days after exhausting administrative channels available to the employee in the employee's institution; or
- (b) where administrative channels are not available, within thirty days of knowing that the employee's services have been so terminated or that the employee has been so disadvantaged or penalised;

lay a complaint before the Court.

(5) Any person who contravenes any of the provisions of this section shall be guilty of an offence, and liable upon conviction, to a fine not exceeding one thousand penalty units and may be prohibited from holding office in an association for such period as the Court may determine.

(6) In this section, "appropriate time", in relation to an employee taking part in any activities of a trade union, means any time which-

- (a) is outside the employees' working hours; or

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- (b) is a time within the employees' working hours at which, in accordance with arrangements agreed with, or consent given by or on behalf of, the employees' employer, it is permissible for the employee to take part in those activities;

and in this subsection, "working hours", in relation to an employee, means any time when in accordance with the employees' contract of employment the employee is required to be at work.

(As amended by Act No. 13 of 1994)

6. Every employee shall promote, maintain and co-operate with the management of the undertaking in which the employee is employed in the interest of industrial peace, greater efficiency and productivity.

Obligations of employees in respect of trade union and its activities

7. (1) Every trade union shall be registered under this Act with the Commissioner within six months from the date of formation.

Registration and consequences of non-registration

(2) If the Commissioner refuses to register a trade union, the Commissioner shall notify the trade union of such refusal and the trade union shall be dissolved within six months from the date of the notification.

(3) Every trade union which is not registered or dissolved, as the case may be, within the period prescribed in subsection (1) or (2), and every officer of such trade union, shall be guilty of an offence and liable, upon conviction, to a fine not exceeding four penalty units for every day that it remains unregistered or undissolved, as the case may be, after the expiration of such period, and every such officer may in addition be prohibited from holding office in any other trade union for a period of three years.

(As amended by Act No. 13 of 1994)

8. (1) No trade union or officer shall perform any act in furtherance of the objects for which it has been formed unless such trade union is registered under this Act.

Acts of unregistered trade unions and their officers

(2) Any trade union which, or officer who, contravenes subsection (1) shall be guilty of an offence and liable upon conviction to a fine not exceeding two hundred penalty units, and every such officer may in addition be prohibited from holding office in any other trade union for a period determined by the Court.

(As amended by Act No. 13 of 1994)

9. (1) Subject to subsection (3), a body shall not be registered as a trade union with the Commissioner unless it has a membership of not less than one hundred persons.

Application for registration of trade union

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(2) An application to register as a trade union shall be in the prescribed form signed by one hundred supporters and shall be accompanied by a copy of the constitution of the proposed trade union.

(3) The application and the constitution referred to in subsection (2) shall be submitted to the Commissioner for registration.

(4) Notice of every application for registration as a trade union shall be published in three consecutive issues of the *Gazette*.

(5) Objections to the registration of any body as a trade union shall be in writing and shall be lodged with the Commissioner not later than ninety days of the last notice appearing in the *Gazette*.

(6) Subject to subsection (8) the Commissioner-

(a) after considering the objections submitted under subsection (5); and

(b) on being satisfied that the body proposed to be registered as a trade union has complied with the provisions of registration under this Act, and that the constitution of that body provides for matters prescribed by section *eight*;

shall unless the proposed trade union is incapable of implementing any of its principal objects, register such body and issue a certificate of registration in the prescribed form to that body.

(7) A certificate of registration issued under subsection (6) unless proved to have been withdrawn or cancelled shall be *prima facie* evidence that the provisions of this Act relating to registration have been complied with.

(8) No body registering as a trade union shall be registered-

(a) under a name identical to or by which any other trade union has been registered or so nearly resembles such name as to be likely to deceive its own members or members of the public;

(b) if it does not comply with the conditions of registration which the Minister may by statutory instrument prescribe; or

(c) if it purports to represent a class or classes of employees already represented by an existing trade union or are eligible for membership of an existing trade union unless the union intended to be registered represents a specific trade or profession or category or eligible employees who are qualified to form a trade union.

10. Every trade union established by, and registered in accordance with, section six of the Industrial Relations Act, 1990, is hereby continued as if established and registered under this Act.

Continuation of trade unions Act No. 36 of 1990

11. (1) The Constitution of every trade union in force immediately before the commencement of this Act shall continue in force until replaced or amended under this section.

Constitution of trade unions

(2) The Constitution of every trade union and every alteration or addition to the Constitution shall be registered with the Commissioner and shall be accompanied by an authenticated copy of the resolution made to alter or add to any provision of the Constitution.

(3) The Constitution of a trade union shall not be altered or added to so that it fails in any material way to provide for the matters specified in this section.

(4) The constitution of every trade union shall include the provisions prescribed in the Schedule to this Act and in particular that one of the purposes to which such funds shall be applied shall be the training of trade union leaders at all levels for responsible and effective leadership, advancement of workers' education and imparting skills to the workers in preparation for their retrenchment or retirement.

12. (1) The Commissioner shall, after obtaining the approval of the Minister, cancel the certificate of registration of a trade union-

Cancellation of certificate of registration of trade union

- (a) at the request of the trade union which has resolved to be dissolved and an application has been made in the prescribed form;
- (b) if the certificate of registration has been obtained by fraud or mistake;
- (c) if the trade union has wilfully violated any of the provisions of this Act; or
- (d) if the trade union is dormant.

(2) Where the Commissioner intends to cancel the certificate of registration under paragraph (b) or (c) of subsection (1), he shall, at least three months before cancelling the certificate, give notice in writing to the union and the union may make representations to the Commissioner within that period of notice.

(3) The Commissioner may, after receipt from the trade union of representations, if any, and after the expiration of the three months notice, cancel the certificate of registration and shall notify the trade union accordingly.

(4) A trade union whose registration is cancelled shall have a right of appeal to the Court in accordance with the provisions of section *thirteen*.

(5) A trade union whose certificate of registration has been cancelled under this section shall, from the time of such cancellation, cease to operate as a trade union and shall be dissolved unless an appeal against such cancellation is preferred under section *thirteen* to the Court:

Provided that in the case of any cancellation, other than cancellation made under paragraph (a) of subsection (1), in respect of which no appeal is preferred to the court, the cancellation shall not have effect until the Court confirms the cancellation.

13. (1) Any person aggrieved by any refusal of the Commissioner to register a trade union, or by any decision to register an organisation as a trade union, or by the cancellation of a certificate of registration, may appeal, to the Court not later than thirty days after the notification of such refusal, decision or cancellation, as the case may be.

Appeal from decisions
Commissioner

(2) The Commissioner shall have the right to be heard on any appeal preferred under subsection (1).

(3) The Chairman may make rules governing such appeals, providing for the method of tendering evidence, prescribing the procedure to be followed, the fees to be paid, and notices to be given to the Commissioner.

14. (1) Subject to subsection (8) of section *nine*, a trade union may, in accordance with the provisions of its constitution, change its name.

Change of name or
address of trade union

(2) Notice in writing of every change of name, signed by seven members, and countersigned by the executive officer of the executive committee of a trade union, shall be sent to the Commissioner within thirty days of the change, and the Commissioner shall register the change of name if he is satisfied that the change complies with subsection (1).

(3) No change of name shall affect any right or obligation of a trade union or of any member, and legal proceedings in respect of such right or obligation may be commenced or, if pending, continued by, or against, the trustees of the trade union or any other officer who may sue or be sued on behalf of such trade union, notwithstanding its new name.

(4) Notice in writing of every change in the address of the registered office of a trade union shall be sent to the Commissioner within thirty days of the change, and the Commissioner shall register the change of address.

(5) Failure to send a notice as required by subsection (2) or (4), as the case may be, shall render the executive officer of a trade union liable, upon conviction, to a fine not exceeding twenty penalty units for every day during which the failure continues.

(As amended by Act No. 13 of 1994)

15. (1) Two or more trade unions may, in accordance with the provisions of their respective constitutions, amalgamate as one trade union and the new trade union so formed shall be registered in accordance with the provisions of this Act.

Amalgamation of trade unions

(2) Any legal proceedings in respect of any rights or obligations of a trade union which has amalgamated with another trade union may be commenced, be continued, if pending, by, or against, the trade union formed as a result of the amalgamation.

16. (1) When it is intended to dissolve a trade union voluntarily, notice of such intention, signed by the members of the executive committee of the trade union and a copy of the resolution to dissolve the trade union, shall be sent to the Commissioner with a copy to the Congress, if the trade union is affiliated to it, and the Congress may comment on the intended dissolution within fourteen days of the receipt of the notice.

Voluntary dissolution of trade union

(2) If the Commissioner is satisfied that the intended dissolution of a trade union is in accordance with its constitution, the Commissioner shall approve the dissolution of such trade union.

(3) The Commissioner shall notify his approval to the trade union, the Federation and the Congress, if the trade union is affiliated to it.

(4) The dissolution shall become effective from the date the Commissioner approves such dissolution.

(5) Where a trade union is dissolved under subsection (2) or dissolved under subsection (5) of section *twelve-*

- (a) the property of the trade union shall vest in the liquidator appointed by the Commissioner who shall have all the powers to recover, realise and sell such property as a trustee in bankruptcy has in relation to bankrupt's property under the Bankruptcy Act and Part V of the Bankruptcy Act relating to remuneration and costs shall, with the necessary modifications, apply to such liquidator;

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- (b) the liquidator shall proceed to wind up the affairs of the trade union and, after satisfying and providing for all the debts or other liabilities of the trade union, prepare a scheme for the application of its remaining assets or property for purposes likely to benefit the former members of the dissolved trade union; or distribute the assets or property or the proceeds among its former members, as the Commissioner may determine.

(6) No action or other proceedings shall lie or be instituted against the liquidator in respect of anything done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

17. (1) From the commencement of this Act-

Existing trade unions
and Congress

- (a) a trade union with a valid certificate of registration issued under the Industrial Relations Act, 1990 and which was affiliated to the Congress prior to that Act, shall, subject to paragraph (b), continue to be affiliated to the congress;
- (b) a trade union affiliated to the Congress may by a simple majority decision of the members present and voting at a general conference of that trade union cease to be affiliated to the Congress;
- (c) a trade union registered under this Act may be affiliated to the Congress by a simple majority decision of the members present and voting at a general conference; and
- (d) a trade union affiliated to the Congress shall have rights and privileges specified in the Constitution of the Congress.

Act No. 36 of 1990

(2) Every registered trade union shall, upon request, supply a copy of its current constitution to every person who becomes a member of that trade union.

(3) Any person who, with intent to mislead or defraud-

- (a) gives to any member of a registered trade union or to any person intending or applying to become a member of such trade union, a copy of a constitution or any amendment to it other than the current version purporting that it is the current constitution of such trade union or current amendment to it, as the case may be; or

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- (b) gives to any person a copy of any constitution purporting it to be a constitution of a registered trade union when it is not registered;

shall be guilty of an offence and shall be liable, upon conviction-

- (i) for misleading, to a fine not exceeding four hundred penalty units; or
- (ii) to a fine not exceeding eight hundred penalty units where there was an intention to defraud; and

in addition, may be prohibited from holding office in a trade union for such period as the Court may determine.

(As amended by Act No. 13 of 1994)

18. (1) No person shall be qualified for election or appointment as an officer of a trade union if he-

Disqualifica-tion from election or appointment as officer of trade union

- (a) has not been engaged or employed for a period of twelve months or more in the trade, occupation or industry with which the trade union is directly concerned:

Provided that the trade union may, if satisfied as to the suitability of a particular candidate, allow him to stand for such election, or be appointed, notwithstanding that he has been so engaged or employed for a period of less than twelve months;

- (b) having been an officer (or a member of the executive) of a trade union whose certificate of registration has been cancelled under section *eleven*, fails to satisfy the Commissioner that he did not contribute to the circumstances leading to such cancellation;
- (c) has been convicted of an offence involving dishonesty within a period of five years preceding the election or appointment;
- (d) is an undischarged bankrupt;
- (e) is of unsound mind; or
- (f) has been suspended, under its constitution or under this Act, from holding office in the trade union and his suspension has not been revoked, or the period for which he was suspended has not expired.

(2) An officer of a trade union shall cease to hold office if any circumstances arise which would disqualify him under subsection (1) for election as an officer.

(3) No person who is a full-time officer of a trade union shall be a full-time officer of any other trade union or of the congress unless he resigns from his first office.

(4) The Commissioner may call for such documentation and information, as he may think necessary, from the executive committee or any officer of a trade union in order to ensure that the provisions of this section are being complied with.

(5) Any person who acts or purports to act as an officer of a trade union after being disqualified under this section to hold office in a trade union shall be guilty of an offence and liable, upon conviction, to a fine not exceeding four hundred penalty units and in addition may be prohibited from holding office in any trade union for a period determined by the Court.

(As amended by Act No. 13 of 1994)

19. (1) Where a trade union holds an election to fill any office, the trade union shall, within thirty days of the election or appointment, notify, in writing, the Commissioner, and the Congress, if the trade union is affiliated to it, of the result of the election or appointment, as the case may be.

Information about elections of trade union, etc

(2) Failure to comply with subsection (1) shall render the executive officer of the trade union guilty of an offence and liable, upon conviction, to a fine not exceeding ten penalty units for every day during which such failure continues.

(3) The name and office of every office holder and trustee of the trade union shall be exhibited in a prominent place at the registered office, and at every branch office, of the trade union.

(As amended by Act No. 13 of 1994)

20. (1) Any member or officer of a trade union or any officer of the Congress, if the trade union is affiliated to it, may apply to the Court for an injunction prohibiting an officer of the trade union from holding office or dealing with funds of the trade union.

Injunction against officer of trade union

(2) On an application made under subsection (1) the Court may, if it is satisfied that such officer is disqualified under section *eighteen* from holding office in that trade union, or that there is a reasonable case against such officer for the fraudulent misuse of the trade union funds, grant such application and make the necessary order.

21. (1) As soon as practicable, but not later than twelve months after the expiry of each financial year of the trade union, the executive officer of every trade union shall submit to the Commissioner a report concerning the financial affairs of the trade union during that financial year.

Annual report of accounts of trade union

(2) The report referred to in subsection (1) shall include information on the financial affairs of the trade union and there shall be appended to it-

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- (a) an audited balance sheet;
- (b) an audited statement of revenue and expenditure; and
- (c) such other information as the Commissioner may require.

(3) An executive officer of a trade union who, without good cause, fails to comply with this section shall be guilty of an offence and liable, upon conviction, to a fine not exceeding two hundred penalty units and may be prohibited from holding office in any trade union for a period not exceeding five years.

(As amended by Act No. 13 of 1994)

22. (1) An employer may, by agreement with an eligible employee, deduct the amount of subscription prescribed by the constitution of the trade union from the wages of such eligible employee if the employee is a member of such trade union.

Deduction of
subscription by
agreement

(2) An eligible employee may, at any time, withdraw the agreement referred to in subsection (1), by giving three months notice, in writing, to the trade union concerned.

(3) The Minister may, by statutory instrument, order an employer to deduct, at the end of each month, from the wages of an eligible employee, the subscription prescribed by the constitution of a trade union.

(4) The Minister shall not make an order under subsection (3) unless he is satisfied that the number of eligible employees named in the order exceeds sixty per cent of the total number of employees.

(5) The Minister shall inform the employer concerned before making the order under subsection (3).

(6) The employer may make written submissions to the Minister objecting to the order within thirty days.

(7) The Minister may accept or reject the submissions made to him.

(8) An order made under subsection (3) shall apply to all eligible employees.

(9) The Minister may make regulations to give effect to the provisions of this section.

23. (1) An employer shall, not later than fourteen days after the end of each month, remit the subscription in the manner prescribed in the agreement or the order. Remittance of subscription

(2) An employer who fails to comply with an order made under section *twenty-two* shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding four hundred penalty units or to imprisonment for a term not exceeding six months, or to both.

(3) Where an employer is convicted of an offence involving failure to remit subscriptions as required under section *twenty-two*, the court shall, in addition to any other penalty imposed by it, order the employer to pay to the trade union an amount equal to the subscription he failed to remit plus interest calculated at the ruling bank rate if the arrears are in excess of three months.

(4) The amount referred to in subsection (3) shall be recovered as if it were an amount ordered by the court or paid as a civil debt.

(As amended by Act No. 13 of 1994)

24. A trade union may purchase or take on lease in the name of the trustee of the trade union any land and sell, exchange, mortgage or let the land, and no purchaser, assignee, mortgagee or tenant shall inquire whether the trustee has authority for the sale, exchange, mortgage or letting, and the receipt of the trustees shall be a valid discharge for the moneys arising therefrom. Acquisition of land by trade unions

25. All real and personal property belonging to any trade union shall vest in trustees of the trade union, for the use and benefit of the trade union and the members. Property of trade union to vest in trustees

26. The trustees of a trade union, or any other officer of the trade union, who may be authorised so to do by the constitution shall have power to bring or defend or cause to be brought or defended, any action, suit or proceedings, whether civil or criminal, as the case may be, in any court of law, concerning the property, or any right or claim to property of the trade union and shall have power in all cases concerning the real or personal property of the trade union, to sue and be sued in court, in their proper names, without other description than the title of their office. Actions by or against trustees of trade unions

27. A trustee of a trade union shall not be liable to make good any deficiency occurring in the funds of the trade union unless such deficiency occurred due to neglect or wilful default on the part of the trustee. Limitation of liability of trustees of trade unions

PART III

ZAMBIA CONGRESS OF TRADE UNIONS

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- 28.** The Zambia Congress of Trade Unions established by, and registered in accordance with, section *twenty-eight* of the Industrial Relations Act, 1990, is hereby continued as if established, and registered under this Act. Continuation of Congress Act No. 36 of 1990
- 29.** (1) The Constitution of the Congress in force immediately before the commencement of this Act continues in force until replaced or amended under this part. Constitution of Congress
- (2) The Constitution or any alteration or addition to the Constitution of the Congress shall be registered with the Commissioner.
- (3) The Constitution of the Congress shall include the provisions prescribed in the Schedule to this Act and in particular-
- (a) a provision prescribing the entrance fees; and
 - (b) on any proposal to affiliate with any organisation or body outside Zambia.
- 30.** (1) No person shall be qualified for election or appointment as an officer of the Congress if- Qualification and disqualification from election or appointment as officer of Congress
- (a) he has been an officer, or a member of the executive, of a trade union the certificate of registration of which has been cancelled under section *twelve* and he fails to satisfy the Commissioner that he did not contribute to the circumstances leading to such cancellation or dissolution;
 - (b) he has been convicted of an offence involving dishonesty within five years preceding the election or appointment;
 - (c) he is an undischarged bankrupt;
 - (d) he is of unsound mind;
 - (e) he has been suspended, under this Act or under the Constitution of the Congress, from holding office in the Congress and his suspension has not been revoked, or the period for which he was suspended has not expired.
- (2) An officer of the Congress shall cease to hold office if any circumstances arise which would disqualify him under subsection (1) for election as an officer.

(3) No person who is a full time officer of the Congress shall be a full time officer of any trade union.

(4) The Commissioner may call for such documentation and information, as he may think necessary, from the executive committee or any officer of the Congress to ensure that the provisions of this section are complied with.

(5) Any person disqualified under this section to hold office in the Congress who acts or purports to act as an officer of the Congress, shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in a trade union for a period determined by the Court.

(As amended by Act No. 13 of 1994)

31. (1) Where the Congress holds an election to fill any office in the Congress or makes an appointment to any office, the executive officer of the Congress shall, within thirty days of such election or appointment, notify the Federation and the Commissioner, in writing, of such appointment or of the result of such election, as the case may be.

Information about elections of Congress, etc

(2) Failure to comply with subsection (1) shall render the executive officer of the Congress guilty of an offence and liable upon conviction, to a fine not exceeding ten penalty units for every day during which such failure continues.

(3) The name and office of every office holder and trustee of the Congress shall be exhibited in a prominent place, where possible, at the registered office, and at every registered office of the affiliates of the Congress.

(As amended by Act No. 13 of 1994)

32. Any member or officer of a trade union affiliated to the Congress may apply to the Court for an injunction prohibiting an officer of the Congress from holding office or dealing with the funds of the Congress, and the Court may, if it is satisfied that such officer of the Congress is disqualified under section *thirty-one* from holding office in the Congress or that there is a pending case against such officer for the fraudulent misuse of the funds of the Congress, grant such application and make the necessary order.

Injunction against officer or Congress

33. Section *twenty-one* shall apply, with the necessary modifications, to the Congress and its Secretary-General.

Annual report of accounts of Congress

34. (1) Notwithstanding the other provisions of this Act relating to the affiliation of trade unions to the Congress, each trade union shall maintain its separate status and shall have the right to organise itself as it considers fit in accordance with its constitution.

Relations between Congress and trade unions

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(2) The Congress shall have no jurisdiction over any trade union affiliated to it in any domestic management or domestic matter unless such matter has been referred to the Congress by the trade union.

(3) A trade union or the Congress may affiliate to a trade union or organisation outside Zambia by a simple majority decision of the members present and voting at a general conference of the trade union or Congress and shall inform the Commissioner within twenty-one days of such affiliation.

(4) A trade union or the Congress may receive outside material, technical or financial assistance and shall inform the Minister of such assistance within thirty days of such receipt.

(5) Subject to the other provisions of this Act, the Congress shall have general jurisdiction over trade unions affiliated to it, on-

- (a) any issue requiring adoption of a common policy position affecting the affiliated trade unions;
- (b) the provision of professional and technical advisers to trade unions involved in negotiations with employers associations or litigation; and
- (c) the submission of such information, data, documentation, annual reports and financial statements as Congress may stipulate from time to time.

35. (1) Where a dispute arises between two or more trade unions affiliated to the Congress, the parties to that dispute shall refer the dispute to the Congress for resolution by reconciliation.

Dispute between trade unions

(2) If the Congress fails to resolve the dispute, such dispute shall be referred to the Minister for arbitration, subject to appeal to the Court.

(3) Where the dispute involves trade unions not affiliated to the Congress, or any party to that dispute is not affiliated to the Congress, the parties to the dispute shall refer the dispute to the Minister for arbitration, subject to appeal to the Court.

PART IV

EMPLOYERS' ASSOCIATIONS

36. (1) Every association shall be registered with the Commissioner under this Act within six months from the date of its formation.

Registration and consequences of non-registration of employers' associations

(2) If the Commissioner refuses to register an association, the association shall be dissolved within six months from the date of the notification of the refusal to register-

37. (1) Subject to this Act-

Rights of employers

- (a) employers shall have the right to participate in the formation of, and to join, an association and to participate in the lawful activities of such association;
- (b) nothing contained in any law shall prohibit any employer from being or becoming a member of any association lawfully in being or subject the employer to any penalty by reason of the employers' membership of any such association;
- (c) no person shall impede, interfere with, or coerce, an employer in the exercise of his rights under this Act;
- (d) no person shall subject an employer to any form of discrimination on the ground that the employer is or is not a member of any association;
- (e) no person shall subject another person to any form of discrimination on the ground that the person holds office in an association; and
- (f) no person shall impede or interfere with the lawful establishment administration or functioning of an association.

(2) No employee shall cease or suspend doing work for his employer on the ground that the employer-

- (a) is or is not a member or holds or does not hold office, in an association;
- (b) participates in the lawful activities of an association;
- (c) has appeared as a complainant or as a witness or has given evidence in any proceedings before the Court or any other court; or

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- (d) is or has become entitled to any advantage, award, benefit or compensation in consequence of a decision made by the Court or any other court in favour of the employer, or in favour of an association or class or category of employers to which such employer belongs, either against such employee or against the trade union or class or category of employees to which such employee belongs or against any other person.

(3) Any person who contravenes any provisions of this section shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in a trade union for such period as the Court may determine.

(As amended by Act No. 13 of 1994)

38. (1) Every officer of an association which is not registered or dissolved in accordance with section *thirty-six*, as the case may be, shall be guilty of an offence and liable upon conviction, to a fine not exceeding twenty penalty units for every day that the association remains unregistered or, undissolved, as the case may be, after the expiration of the period specified in section *thirty-six*; and in addition, every such officer may be prohibited from holding office of any association for a period determined by the Court.

Employers'
associations

(As amended by Act No. 13 of 1994)

39. (1) No association shall perform any act in furtherance of the objects for which it has been formed unless the association is registered under this Act.

Acts or unregistered
associations and their
officers

Provided that an association and its constitution registered under the Industrial Relations Act, 1990 shall be deemed to be registered under this Act.

Act No. 36 of 1990

(2) Any association which, or officer who, contravenes subsection (1), shall be guilty of an offence and liable, upon conviction, to a fine not exceeding two hundred penalty units; and the officer may in addition be prohibited from holding office in any association for a period determined by the Court.

(As amended by Act No. 13 of 1994)

40. (1) Subject to subsection (3), an application by not less than five members of an association may be made to the Commissioner for the registration of the association:

Application for
registration of
association

Provided that the Commissioner may accept an application by less than five employers or class of employers to form an association.

(2) Every application to register an association and its constitution shall be-

- (a) submitted to the Commissioner in the prescribed form; and

(b) accompanied by a copy of the constitution.

(3) Notice of every application for the registration of an association shall be published in three consecutive issues of the *Gazette*.

(4) Objections to the registration of any association shall be in writing and shall be lodged with the Commissioner not later than ninety days from the last notice appearing in the *Gazette*.

(5) Subject to subsection (7), the Commissioner, upon being satisfied that an association has complied with the provisions relating to registration under this Act, and that the constitution of the association provides for the matters prescribed under section *forty-two*, shall register the association and its constitution and issue a certificate of registration in the prescribed form to the association, unless, in his opinion, any of the principal objects of the constitution of the association is unlawful or the association is incapable of implementing any of its principal objects.

(6) A certificate of registration issued under subsection (5), unless proved to have been withdrawn or cancelled, shall be *prima facie* evidence that the provisions of this Act relating to registration have been complied with.

(7) No association shall be registered-

(a) under a name identical to or by which any other association has been registered or so nearly resembles that name that it is likely to deceive members of the public; or

(b) if it does not comply with the conditions of registration.

41. Every association established by, and registered in accordance with, section *thirty-nine* of the Industrial Relations Act, 1990, is hereby continued as if established and registered under this Act.

Continuation of
associations Act No.
36 of 1990

42. (1) The constitution of every association in force immediately before the commencement of this Act shall continue in force until replaced or amended under this section.

Constitution of
associations

(2) The constitution of every association shall include the provisions prescribed in the schedule to this Act and in particular a provision to use funds of the association for the holding of employers industrial relations seminars aimed at educating employers on the methods of maintaining harmonious and productive industrial relations between employers and trade unions.

(3) An alteration or addition to the constitution of an association shall be registered with the Commissioner and shall take effect from the date of registration unless a later date for that purpose is specified in its constitution.

(4) An application for registration of an alteration or addition to any provision of the constitution shall be registered with the Commissioner and shall be accompanied by an authenticated copy of the resolution made to alter or add to any provision of the constitution.

(5) The constitution of an association shall not be altered or added to so that it fails in any material way to provide for the matters specified in this section.

43. (1) No person shall be qualified for election as an officer of an association if-

Disqualifica-tion from election or appointment as officer of association

- (a) he, or a member of the executive, of an association the certificate of registration of which has been cancelled under this Act, fails to satisfy the Commissioner that he did not contribute to the circumstances leading to the cancellation;
- (b) he has been convicted of an offence involving dishonesty within a period of five years preceding such election;
- (c) he is of unsound mind;
- (d) he is an undischarged bankrupt; or
- (e) he has been suspended, under this Act or the constitution of the association, from holding office in the association and his suspension has not been revoked, or the period for which he was suspended has not expired.

(2) An officer of an association shall cease to hold office if circumstances arise which would disqualify him under subsection (1) for election as an officer.

(3) No person who is a full-time officer of an association shall be a full-time officer of any other association or Federation unless he resigns from his first office.

(4) The Commissioner may call for such documentation and information which he considers necessary from the executive committee or any officer of an association to ensure that the provisions of this section are being complied with.

(5) Any person who being disqualified under this section to hold office in any association, acts or purports to act as an officer of that association shall be guilty of an offence and liable upon conviction, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in any association for such period as the court may determine.

(As amended by Act No. 13 of 1994)

44. (1) Where an association holds an election to fill any office in the association or makes an appointment to any office, the executive officer of the association shall, within thirty days of the election or appointment, notify the Commissioner and the Federation if the association is affiliated to it in writing, of the result of the election, or of the appointment, as the case may be.

Information about elections of association, etc

(2) An executive officer who fails to comply with subsection (1) shall be guilty of an offence and liable, upon conviction to a fine not exceeding ten penalty units for every day during which the failure continues.

(3) The name and office of every office holder and trustee of the association shall be exhibited in a prominent place at the registered office, and at every branch of the association.

(As amended by Act No. 13 of 1994)

45. (1) Any member or officer, of an association, or any officer of the Federation, if the association is affiliated to it, may apply to the Court for an injunction prohibiting an officer of the association from holding or continuing to hold office or dealing, or continuing to deal, with the funds of the association.

Injunction against officer of association

(2) On an application made under subsection (1), the Court may, if it is satisfied that the officer is disqualified under section *forty-three* from holding office in that association, or that there is a pending case against the officer for the fraudulent misuse of the association's funds, grant the application and make the necessary order.

46. (1) The Commissioner may, with the approval of the Minister, cancel the certificate of registration of an association-

Cancellation of certificate of registration

- (a) at the request of the association which has resolved to be dissolved and the application has been made in the prescribed form;
- (b) if the certificate of registration has been obtained by fraud or mistake; or
- (c) if the association has wilfully violated any of the provisions of this Act.

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(2) Where the Commissioner intends to cancel the certificate of registration of an association under paragraphs (b) or (c) of subsection (1), he shall at least three months before cancelling the certificate, give notice to the association concerned, specifying the grounds upon which he intends to rely for the intended cancellation.

(3) The association referred to in subsection (2) may make representations to the Commissioner in opposition to the grounds contained in the notice.

(4) The Commissioner may, after the receipt from the association of representations, if any, and after the expiration of the three months notice, cancel the certificate of registration and shall notify the association accordingly.

(5) An association whose certificate of registration is cancelled may appeal to the Court.

(6) An association whose certificate of registration is cancelled shall from the time of the cancellation cease to operate as an association and shall be dissolved unless an appeal against the cancellation is preferred:

Provided that in the case of any cancellation other than a cancellation made under paragraphs (a) and (c) of subsection (1), in respect of which no appeal is preferred to the Court, the cancellation shall not have effect until it is referred to the Court for confirmation.

47. (1) Any person aggrieved by a refusal of the Commissioner to register an employers' association, or by the cancellation of a certificate of registration, may appeal to the Court within thirty days of the notification of refusal, decision or cancellation, as the case may be.

Appeal from decisions
of Commissioner

(2) The Commissioner shall be entitled to appear and to be heard on any appeal made under subsection (1).

(3) The Chairman may make rules governing appeals, provide for the method of tendering evidence, prescribe the procedure to be followed, the fees to be paid, and notices to be given to the Commissioner.

48. (1) Subject to subsection (7) of section *forty* an association may, in accordance with the provisions of its constitution, change its name.

Change of name or
address of association

(2) Notice in writing of every change of name, signed by all the members of the executive committee of an association shall be submitted to the Commissioner within thirty days of the change and the Commissioner shall register the change of name if he is satisfied that the change complies with subsection (1).

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(3) No change of name shall affect any right or obligation of an association or of any member of the association, and any legal proceedings in respect of the right or obligation of the association may be commenced or continued, if pending, by or against the trustees of the association or any other officer who may sue or be sued on behalf of the association, notwithstanding its new name.

(4) Notice in writing of every change in the address of the registered office of an association shall be sent by its executive officer to the Commissioner for registration within thirty days of the change of address.

(5) Failure to send a notice as required by subsection (2) or (4), shall render the association and its executive officer liable, upon conviction, to a fine not exceeding twenty penalty units each for every day during which the failure continues.

(As amended by Act No. 13 of 1994)

49. (1) Two or more associations may amalgamate as one association and the new association shall be registered in accordance with this Act.

Amalgamation of associations

(2) Any legal proceedings in respect of any rights or obligations of an association which has amalgamated with another association may be commenced or be continued, if pending, by or against the association formed as a result of the amalgamation.

50. (1) Where an association is to be dissolved voluntarily, a notice of the intention to dissolve the association signed by all the members of the executive of the association and an authenticated copy of the minutes and resolution passed making the decision shall be submitted to the Commissioner with a copy to the Federation, if the association is affiliated to it, which may comment on the intended dissolution within fourteen days of receipt of the notice.

Voluntary dissolution of association

(2) If the Commissioner is satisfied that the intended dissolution of an association is in accordance with its constitution he may approve the dissolution of the association and the dissolution shall be effective from the date the Commissioner accords his approval.

(3) The Commissioner shall notify his approval to the association and the Federation, if the association is affiliated to it.

(4) Where an association is dissolved under subsection (2) or dissolved under section *forty-six*-

- (a) the property of the association shall vest in the liquidator appointed by the Commissioner who shall have all the powers to recover, realise and dispose of the property as a trustee in bankruptcy has in relation to a bankrupt's property under the Bankruptcy Act and Part V of the Bankruptcy Act relating to remuneration and costs with the necessary modifications, shall apply to such liquidator; Cap. 82
- (b) the liquidator shall wind up the affairs of the association and, after satisfying and providing for all the debts or other liabilities, prepare a scheme for the application of its remaining assets or property for purposes likely to benefit the former members of the dissolved association, or distribute the assets or property or the proceeds among such of its former members as the Commissioner may determine.

(5) No suit or proceeding shall be instituted against the liquidator appointed by the Commissioner for or in respect of anything done or omitted to be done by him in the performance of his functions under this Act.

51. (1) From the commencement of this Act-

Affiliation of
association to
Federation Act No. 36
of 1990

- (a) an association which holds a valid certificate of registration issued under the Industrial Relations Act, 1990 and which was affiliated to the Federation prior to that Act, shall continue to be affiliated to the Federation under this Act; and
- (b) an association affiliated to the Federation shall by a simple majority decision of the members present and voting at a general conference, cease to be affiliated to the Federation.

(2) An association registered under this Act may be affiliated to the Federation by a simple majority decision of the members present and voting at the general conference of that association.

(3) An association affiliated to the Federation under paragraph (b) of subsection (1) shall, on such affiliation have rights and privileges, and be subject to the obligations specified in the Constitution of the Federation.

52. Section *twenty-one* shall apply, with the necessary modifications, to an association or executive officer as it applies to a trade union and its executive officer.

Annual report of
accounts of
association

53. Section *twenty-five* shall apply, with the necessary modifications, to an association and its trustees as it applies to a trade union and its trustees.

Acquisition of land by
association and
vesting of property

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54. Sections *twenty-six* and *twenty-seven* shall apply, with the necessary modifications, to an association and its trustees as they apply to a trade union and its trustees.

Actions by or against trustees of association and limitation of their liability

PART V

ZAMBIA FEDERATION OF EMPLOYERS

55. The Zambia Federation of Employers established by, and registered in accordance with, section *fifty-six* of the Industrial Relations Act, 1990, is hereby continued as if established and registered under this Act.

Continuation of Federation Act No. 36 of 1990

56. (1) The Constitution of the Federation in force immediately before the commencement of this Act shall continue in force until replaced or amended under this section.

Continuation of Federation

(2) The Constitution of the Federation and every alteration or addition to the Constitution shall be registered with the Commissioner.

(3) The Constitution of the Federation shall include the provisions prescribed in the Schedule to this Act and in particular-

(a) a provision for prescribing the entrance fees; and

(b) any proposal to affiliate with any organisation or body outside Zambia.

57. Section *thirty-four* shall apply to the relationship between the Federation and associations, with the necessary modifications, as it applies to the Congress and trade unions.

Relations between Federation and employers' associations

58. (1) No person shall be qualified for election as an officer of the Federation if-

Disqualification from election or appointment as officer of Federation

(a) he has not, for three years or more, been an officer of an association or engaged in a managerial capacity or in the field of personnel management or industrial relations:

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Provided that the Federation may, if it is satisfied as to the suitability of a particular candidate, allow him to stand for such election, notwithstanding that he does not qualify under this paragraph;

- (b) he, having been an officer or a member of the executive of any association, the registration of which has been cancelled under the provisions of this Act, fails to satisfy the Commissioner that he did not contribute to the circumstances leading to the cancellation;
- (c) he has been convicted of an offence involving dishonesty within a period of five years preceding the election or appointment;
- (d) he is an undischarged bankrupt;
- (e) he is of unsound mind; or
- (f) he has been suspended, under the Constitution of the Federation, from holding office in the Federation and his suspension has not been revoked, or the period for which he was suspended has not expired.

(2) An officer of the Federation shall cease to hold office if any circumstances arise which would disqualify him under subsection (1) for election as an officer.

(3) The Commissioner shall, for the purpose of satisfying himself that the provisions of this section are being complied with, request for such documentation or information, as he may think necessary, from the executive officer of the Federation.

(4) Any person who, being disqualified under this section from holding office in the Federation, acts or purports to act as an officer of the Federation shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in the Federation for a period determined by the Court.

(As amended by Act No. 13 of 1994)

59. (1) Where the Federation holds an election to fill any office in the Federation or makes appointment to any office, the executive officer of the Federation shall, within thirty days of the election or appointment, notify the Commissioner and the Congress, in writing, of the appointment or of the result of the election, as the case may be.

Notification of results
of election of
Federation

(2) Any executive officer who fails to comply with subsection (1) shall be guilty of an offence and liable upon conviction, to a fine not exceeding ten penalty units for every day during which such failure continues.

(3) The name and office of every office holder and trustee of the Federation shall be exhibited in a prominent place at the registered office, where possible, and at every registered office of the affiliates of the Federation.

(As amended by Act No. 13 of 1994)

60. Section *twenty-one* shall apply, with the necessary modifications, to the Federation and its executive officer as it applies to a trade union and its executive officer.

Annual report or accounts of Federation

PART VI

FUNDS OF TRADE UNIONS, CONGRESS, ASSOCIATION AND FEDERATION

61. (1) Notwithstanding anything contained in the constitution of a trade union, the Congress, an association or the Federation, the funds of a trade union, the Congress, an association or the Federation, shall be expended for the lawful objects authorised under the constitution of the trade union, Congress, association or Federation.

Objectives for which funds shall not be expended

(2) Any member of, a trade union, the Congress, an association or the Federation may apply to the Court for a declaration to stop a trade union, the Congress, an association or the Federation from applying its funds to objects which in his opinion have not been authorised by its constitution.

62. (1) Subject to subsection (3), every treasurer, former treasurer, or other officer of, a trade union, the Congress, an association or the Federation, shall, at such times as he is required by the constitution of the trade union, Congress, association or Federation or upon being requested to do so, submit to the trustees or the members of the trade union, Congress, association or Federation at a meeting of the trade union, Congress, association or Federation, a true account of-

Control of funds

(a) all monies received and disbursed by him; and

(b) the balance of monies in hand;

Provided that in the case of a former treasurer-

(i) the duty to submit an account of monies received and disbursed by him shall only apply to him within thirty days of his ceasing to hold office; and

(ii) paragraph (b) shall not apply to him.

(2) The trustees of a trade union, the Congress, an association of the Federation, shall, on receipt of the account submitted under subsection (1), cause the account to be audited by an auditor appointed by them.

(3) Notwithstanding subsection (1) or the constitution of, a trade union, the Congress, an association or the Federation, a trade union, the Congress, an association or the Federation may appoint an accountant and the name and address of the person so appointed shall, as soon as practicable thereafter, be published in the *Gazette*.

(4) Where an accountant has been appointed under subsection (1)-
the accountant shall-

- (a) have access at all reasonable times to all books of account, records, returns, reports and other documents relating to the transactions of a trade union, the Congress, an association or the Federation.
- (b) submit the accounts for audit or inspection, if so required by the Commissioner, and furnish all other information relating to the transactions of a trade union, the Congress, an association or the Federation;
- (c) debit the accounts of a trade union, the Congress, an association or the Federation with his professional fees and expenses reasonably incurred in the performance of his functions.

(5) In the event of the accountant ceasing to hold office, he shall hand over to the executive officer all monies, securities, books, documents, papers and other things in his possession and belonging to, or held by him on behalf of, the trade union, Congress, association or Federation.

(6) Any person who wilfully obstructs the accountant in the performance of his functions under this section shall be guilty of an offence and liable, upon conviction, to a fine not exceeding one thousand penalty units or to imprisonment for a term not exceeding three months, or to both.

(As amended by Act No. 13 of 1994)

PART VII

RECOGNITION AGREEMENTS

63. (1) Every employer employing twenty-five or more eligible employees, or such lesser number as may be prescribed by the Minister, shall register himself with the Commissioner within a period not exceeding three months from the date of coming into operation of this section or, from the date upon which this section becomes applicable to the employer, as the case may be.

Registration of employers

(2) The registration shall be in the manner and in the form as may be prescribed:

Provided that an employer registered under the Industrial Relations Act, 1990, shall be deemed to be registered under this Act.

Act No. 36 of 1990

(3) An employer to whom this section applies and who fails without reasonable cause or excuse, (the onus of proof shall lie on the employer), to register in accordance with this section shall be guilty of an offence and liable, upon conviction, to a fine not exceeding two hundred penalty units

(As amended by Act No. 13 of 1994)

64. (1) Not later than three months from the date of coming into operation of this part or from the date upon which this section becomes applicable to any employer, the employer registered under section *sixty-three* and the trade union, if any, to which the employees employed by the employer belong, shall enter into a recognition agreement.

Duty to enter into recognition agreement

(2) Not later than three months from the date of coming into operation of this part or from the date upon which an association and a trade union have become established in an industry, the association and the trade union shall enter into a recognition agreement.

(3) The Minister may, for good cause, extend the period laid down in subsection (1) and (2).

(4) A recognition agreement registered under the Industrial Relations Act, 1990, shall be deemed to be registered under this Act.

Act No. 36 of 1990

(5) Where the parties referred to in subsection (1) or (2), fail to conclude a recognition agreement under this Part, the failure shall be deemed to be a collective dispute and Part IX shall apply, with the necessary modifications.

65. (1) Every recognition agreement shall be in writing, signed by the representatives of the parties to it and shall provide-

Essentials of recognition agreement

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- (a) that the employer or association has recognised the trade union as the sole representative of, and exclusive bargaining agent for, eligible employees represented by the trade union so recognised employed by the employer or the members of such association for the purpose of regulating the collective relationship of the employers or association and the trade union;
- (b) for the methods, remedies and rules relating to procedures, and for the settling of disputes or the remedying of grievances by means of collective bargaining between the employer or association or trade union; and
- (c) for the methods, procedures and rules under which the agreement may be reviewed, amended, replaced or terminated.

(2) Three copies of a recognition agreement and of any alterations to the agreement shall be delivered to the Commissioner by the parties to the agreement.

(3) The Commissioner may, if satisfied that all the conditions of the recognition agreement have been met, register the agreement and shall return a copy each to the parties concerned.

PART VIII

JOINT COUNCILS AND COLLECTIVE AGREEMENTS

66. (1) Within three months from the date of coming into operation of this section or the formation of an association whichever is the later, every association and trade union shall establish a joint council within and for the industry with which the association is concerned:

Establishment of joint council

Provided that every joint council established under the Industrial Relations Act, 1990, shall be deemed to be a joint council established under this Act.

Act No. 36 of 1990

(2) Where the association and the trade union concerned fail or neglect without reasonable cause or excuse (the onus of proof shall lie on the association and trade union) to establish a joint council in the manner and within the period specified in subsection (1), every officer of the association and trade union shall be liable upon conviction, to a fine not exceeding two hundred penalty units.

(As amended by Act No. 13 of 1994)

67. (1) The constitution of a joint council shall include provisions-

Constitution of joint council

- (a) for the composition of its membership;

- (b) for the rules governing the joint council; and
- (c) that the joint council shall hold its meetings at least once in every three months.

(2) Every joint council shall, within fifteen days of its establishment, deliver a copy of its constitution to the Commissioner.

68. Every collective agreement shall contain clauses, in this part referred to as statutory clauses, stipulating- Collective agreements

- (a) the date on which the agreement is to come into effect and the period for which it is to remain in force; and
- (b) the methods, procedures and rules for reviewing, amending, replacing or terminating the collective agreement.

69. (1) The bargaining unit shall-

Obligations of bargaining unit

- (a) commence negotiations for the purpose of concluding a new collective agreement at least three months before the date of expiry of the current collective agreement;
- (b) notify the Commissioner in writing, within fifteen days after the commencement of the negotiations, of the date on which the negotiations were commenced; and
- (c) conclude and sign the collective agreement within three months after the commencement of the negotiations.

(2) If the bargaining unit fails, or neglects without reasonable cause or excuse (the onus of proof shall lie on the bargaining unit) to commence negotiations or conclude the collective agreement in the manner and within the period specified in paragraphs (a) and (c) of subsection (1), or to notify the Commissioner in the manner and within the period specified in paragraph (b) of subsection (1), every member of the bargaining unit shall be liable, upon conviction, to a fine not exceeding forty penalty units and may be prohibited from holding a position in the bargaining unit for a period not exceeding three months.

(As amended by Act No. 13 of 1994)

70. (1) The parties to a collective agreement shall, within fourteen days of signing, lodge five signed copies of the collective agreement with the Commissioner. Lodging of collective agreements

(2) The Commissioner shall, within fourteen days of receipt of the copies referred to in subsection (1), submit such copies, together with his comment to the Minister.

71. (1) The Minister may, after considering a collective agreement lodged in accordance with section *seventy-one* together with the comments of the Commissioner received under subsection (2)- Approval of collective agreement

- (a) direct that a copy of the collective agreement be returned to the parties together with his reasons for not directing the registration and give instructions to re-submit the collective agreement to the Commissioner; or
- (b) direct the Commissioner to register the collective agreement.

(2) The Minister shall not direct the registration of a collective agreement unless he is satisfied that-

- (a) the agreement contains the statutory clauses referred to in section *sixty-eight*; and
- (b) the clauses in the agreement do not contain anything which is contrary to any written law.

(3) Every collective agreement which has been approved by the Minister shall-

- (a) come into force on the date on which it is approved or on a later date specified in the collective agreement;
- (b) remain in force for such period as shall be specified in the agreement;
- (c) be binding on the parties to it, or in the case of a joint council, it shall bind every employer and employee engaged in the industry; and
- (d) be notified in the *Gazette* if it is a collective agreement negotiated and concluded by a joint council.

72. The parties to a collective agreement may by agreement vary the provisions of a collective agreement and the procedure set out in section *seventy* shall apply, with the necessary modifications, to the variation. Variation of collective agreement

73. (1) Where a bargaining unit is unable to conclude a new collective agreement before the expiration of the existing collective agreement, or where for any other reason the bargaining unit desires to extend the period during which the existing collective agreement is to remain in force, it may apply to the Minister in that behalf. Extension of collective agreement in force

(2) An application under subsection (1) shall be made not less than thirty and not more than sixty days before the expiration of the existing collective agreement:

Provided that the Minister may, consider an application made at any time before the expiration of the existing collective agreement.

(3) Any extension of an existing collective agreement which was negotiated and concluded by a joint council shall be notified in the *Gazette*.

74. A collective agreement concluded by a joint council shall bind every employer and employee engaged in the industry concerned notwithstanding that the employer or employee is not a member of the association or of the trade union concerned, or was not a party to the collective agreement:

Collective agreements
by joint councils

Provided that nothing in this section shall preclude an employer from concluding a collective agreement directly with the appropriate trade union on terms and conditions which are not less favourable than those contained in the collective agreement concluded by the joint council.

PART IX

SETTLEMENT OF COLLECTIVE DISPUTES

75. A collective dispute shall exist when there is a dispute between an employer or an organisation representing employers on the one hand and the employees or an organisation representing the employees on the other hand, relating to terms and conditions of, or affecting the employment of, the employees and one party to the dispute has presented in writing to the other party all its claims and demands and-

Collective disputes

- (a) the other party has, within fourteen days from the date of receipt of the claims or demands, failed to answer the claims or demands; or
- (b) the other party has formally rejected the claims or demands and has made no counter offer; or
- (c) both the parties to the dispute have held at least one meeting with a view to negotiating a settlement of the dispute, but have failed to reach settlement on all or some of the matters in issue between them.

76. (1) Where a collective dispute arises and neither of the parties to the dispute is engaged in an essential service, the parties to the dispute shall refer the dispute to-

Dispute to be referred
to conciliator, board of
conciliation

- (a) a conciliator appointed by the parties to the dispute; or

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- (b) a board of conciliation composed of-
- (i) a conciliator appointed by the employer or an organisation representing employers;
 - (ii) a conciliator appointed by the employees or an organisation representing the employees; and
 - (iii) a conciliator appointed by the employer or the organisation representing the employers and employees or the organisation representing employees, who shall be the Chairman.

(2) Where the parties to a collective dispute not engaged in an essential service fail to agree within a period of seven days from the date when the collective dispute arose on the appointment of a conciliator or of the Chairman, they shall inform the Commissioner accordingly.

(3) The Commissioner on receipt of the information under subsection (2) shall request the Minister to appoint, within a period of seven days from the date of the request, a conciliator or Chairman of the board of conciliation from a list of names submitted and agreed upon by the representatives of employees and the representatives of employers.

(4) The conciliator or the board of conciliation appointed under subsection (1) or subsection (3) shall, within seven days of his or its appointment, summon the parties to the collective dispute to a meeting and proceed to conciliate in the dispute.

(5) Any party to a collective dispute or any agent or representative who refuses or neglects without reasonable cause or excuse (the onus of proof shall lie on such party) to attend a meeting summoned by the conciliator or board of conciliation shall be guilty of an offence.

(6) Where a collective dispute arises and any of the parties to it are engaged in an essential service, the parties to the dispute shall refer the dispute to the Court.

(7) Any person who commits an offence under subsection (5) shall, upon conviction, be liable-

- (a) in the case of a body corporate, to a fine not exceeding one thousand penalty units;
- (b) in any other case to a fine not exceeding four hundred penalty units.

(As amended by Act No. 13 of 1994)

77. (1) As soon as a collective dispute is settled by means of conciliation, the conciliator or the Chairman of the Board of conciliation shall cause a memorandum of the terms of the settlement to be prepared which shall be signed by the parties to it and shall be witnessed by the conciliator or the Chairman and each member of the board of conciliation, as the case may be.

Approval of settlement
by conciliation

(2) The conciliator or the Chairman of the board of conciliation, shall, within seven days of the settlement of a dispute by conciliation, submit authenticated copies of the memorandum referred to in subsection (1) to the Registrar.

(3) The Registrar shall, as soon as possible after receipt of a copy of the memorandum refer it to the Court which shall, subject to the settlement embodied in the memorandum, if not contrary to any written law, approve the settlement.

(4) If the Court decides that the settlement as a whole or any term of the settlement embodied in the memorandum is contrary to any written law, the Registrar shall communicate the decision of the Court to the parties to the dispute accordingly.

78. (1) Where a conciliator or board of conciliation fails to settle a collective dispute the parties to the collective dispute may-

Failure to reach
settlement by
conciliation

(a) refer it to the Court; or

(b) conduct a ballot to settle the dispute by a strike or lockout.

(2) Where a collective dispute is referred to the Court under subsection (1) or under subsection (6) of section *seventy-six* the decision of the Court shall, subject to section *ninety-seven* be binding upon the parties to the dispute for such period as the Court may specify in the Order.

(3) Where the parties, decide to proceed on strike or lockout, the parties shall not proceed on strike or lockout unless a simple majority decision of the employees present and voting is made by employees in favour of the strike or lockout.

(4) The strike or lockout may, subject to section *seventy-five*, commence ten days following the decision to do so and may continue for an indefinite period during which the dispute remains unresolved.

(5) The Minister may intervene before the commencement of the strike or lockout under subsection (4) to try and settle the dispute.

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(6) The Minister may, after consultation with the Tripartite Consultative Labour Council apply to the Court for a declaration that the continuance of the strike or lockout is not in the public interest.

(7) The Court shall make a decision within seven days of the application for a declaration that the strike or lockout is not in the public interest.

(8) Where the Court issues a declaration in favour of the application, the strike or lockout shall cease and the dispute shall be deemed to have been referred to the Court under paragraph (a) of subsection (1).

(10) The Court shall have power to decide whether the workers on a legal strike should be eligible for payment of wages during the period of the strike.

PART X

TRIPARTITE CONSULTATIVE LABOUR COUNCIL

79. (1) There is hereby constituted the Tripartite Consultative Labour Council, in this part referred to as the Council which shall consist of the Minister and such equal number of members representing the trade unions, the employers and the Government, as the Minister may determine but the members shall not be less than twenty-one.

Consultative Labour
Council

(2) The members representing-

(a) the trade unions shall be nominated by the Congress;

(b) the employers shall be nominated by the Federation; and

(c) the Government shall be nominated by the Minister.

(3) The Commissioner shall act as the secretary to the Council and any committee which may be formed by the Council.

80. (1) The Council shall be chaired by the Minister, or in his absence, the Deputy Minister responsible for labour.

Chairman and
Vice-Chairman of
Council

(2) There shall be two Vice-Chairmen of the council of which one shall be nominated by the Congress and the other nominated by the Federation.

81. (1) Subject to the other provisions of this Part, the Council may regulate its own procedure.

Proceedings of
Consultative Council

(2) For the transaction of its business, the Council shall meet at least twice annually at such places and at such times, as the Chairman, in consultation with the trade unions and the associations, may determine.

(3) A meeting of the Council may be called by giving notice of not less than fourteen days:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving shorter notice.

(4) At any meeting of the Council, one-half of the members shall form a quorum.

(5) Decisions of the Council on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(6) The Council may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Council but such person shall have no vote.

(7) The validity of any proceedings, act or decision of the Council or any committee of the Council shall not be affected by any vacancy in the membership of the Council or committee of the Council, as the case may be, or by any defect in the appointment of any member or member of such committee or by reason that any person not entitled to do so took part in the proceedings.

(8) The Government, trade unions and the association shall be responsible for paying allowances for the attendance of meetings of the Council, to their respective representatives.

82. (1) The council may establish any number of standing or adhoc committees to assist the Council in the performance of its functions.

Committees of Council

(2) The Council may appoint as members of a committee established under subsection (1), persons who are or are not members of the Council and such persons shall hold office for such period as the Council may determine.

(3) Subject to any specific or general direction of the Council, a committee established under this section may regulate its own procedure.

83. The functions of the Council shall be to advise the Government on all issues relating to labour matters, manpower development and utilisation and any other matter referred to the Council by the Government. Functions of Council

PART XI

INDUSTRIAL RELATIONS COURT

84. The Industrial Relations Court established by section *sixty-four* of the Industrial Relations Act, 1990, is hereby continued as if established under this Act. Continuation of Court Act No. 36 of 1990

85. (1) The Court shall have original jurisdiction in all industrial relations matters. Jurisdiction of Court

(2) The court shall have jurisdiction-

- (a) to inquire into and make awards and decisions in collective disputes and any other matters under this Act;
- (b) to interpret the terms of awards, collective agreements and recognition agreements;
- (c) generally to inquire into and adjudicate upon any matter affecting the collective rights, obligations and privileges of employees, employers and representative organisations or any matter relating to industrial relations;
- (d) to commit and punish for contempt any person who disobeys or unlawfully refuses to carry out, or to be bound by, an order made against him by the Court under this Act; and
- (e) to perform such acts and carry out such duties as may be prescribed under this Act or any other written law.

(3) In this section "dispute" shall include differences concerning employment contracts between an employer and an employee arising from the terms and conditions of service.

(4) The Court shall have the jurisdiction to hear and determine any dispute between any employer and an employee notwithstanding that such dispute is not connected with a collective agreement or other trade union matter.

(5) The Court shall not be bound by the rules of evidence in civil or criminal proceedings, but the main object of the Court shall be to do substantial justice between the parties before it.

(6) An award, declaration, decision or judgement of the Court on any matter referred to it for its decision or on any matter falling within its exclusive jurisdiction shall, subject to section *ninety-seven*, be binding on the parties to the matter and on any parties affected.

(7) It shall be within the exclusive jurisdiction of the Court to resolve any ambiguity in any collective or recognition agreement brought to its notice by any of the parties concerned.

(8) No person shall take part in a lockout or a strike against or in defiance of any award, declaration, decision or judgement of the Court and any person who contravenes this subsection shall be liable, upon conviction, to a fine not exceeding two thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(As amended by Act No. 13 of 1994)

86. (1) The Court shall consist of the following members:

Composition of Court

- (a) a Chairman;
- (b) Deputy Chairmen; and
- (c) not more than ten members as the Minister may appoint.

(2) A person shall not be qualified for appointment as Chairman or Deputy Chairman, unless he qualifies to be appointed as High Court Judge.

(3) The Chairman and Deputy Chairmen shall be appointed by the President on the recommendation of the Judicial Service Commission.

(4) The members, other than the Chairman and Deputy Chairmen, shall hold office for a period of five years but shall be eligible for re-appointment.

(5) The Chairman and Deputy Chairmen shall have the same tenure and security of office as a judge of the High Court prescribed in the Constitution in the Article relating to tenure of office of judges of the Supreme and High Court and shall be subject to removal from office for inability to perform the functions of his office under that Article. Cap. 1

87. (1) There shall be a Registrar and such Deputy Registrars and such Assistant Registrars, as may be necessary, who shall be public officers and who shall be appointed by the Judicial Service Commission. Registrar and other officers of Court

(2) The Judicial Service Commission may appoint such other officers of the Court, as may be necessary.

88. (1) The Minister shall nominate an even number of persons, not exceeding fourteen, of whom one-half shall be representatives of employers and the other half of employees as assessors; and shall submit to the Chairman a list containing the address of such persons and indicating in each case whether the person is a representative of the employers or of the employees. Assessors

(2) The Minister shall cause the list of persons and their addresses referred to in subsection (1) to be published in the *Gazette*.

(3) From the list referred to in subsection (1), the person presiding may select one person who is a representative of the employers and one person who is a representative of the employees to sit as assessors, with the Court in the hearing of any matter before it.

(4) The court shall give due consideration to, but shall not be bound by, the opinion of the assessors.

89. (1) The Chairman or a Deputy Chairman shall preside over the Court. Proceedings of Court

(2) The court, when hearing any matter, shall be duly constituted if it consists of three members or such uneven number as the Chairman may direct:

Provided that the Chairman or a Deputy Chairman may deal with interlocutory matters and deliver a ruling or make any order in chambers and may deliver any ruling or judgement made by the Court duly constituted.

The Laws of Zambia

(3) Subject to subsection (2), the determination of any matter before the Court shall be according to the opinion of the majority of the members of the Court considering or hearing the matter:

Provided that on a point of law the decision of the Chairman or the Deputy Chairman shall prevail.

(4) A person shall not sit or act as a member of the Court or sit as an assessor with the Court, if he has any interest direct or indirect, personal or pecuniary, in any matter before the Court.

(5) The sittings of the Court shall be held in such places as the Chairman may direct.

90. (1) The court may, on application, declare who is or should be the holder of any office in a trade union, the Congress, an association or the Federation. Declaration by Court

(2) The Chairman may make rules providing for the procedure to be followed on an application for a declaration under this section and prescribing any fees which shall be payable on any application.

(3) Without prejudice to the power of the Court to punish for contempt of court, where it has been declared under subsection (1) that any person is or should be the holder of an office, any other person who acts or purports to act as the holder of the office contrary to the terms of the declaration, shall be liable upon conviction, to a fine not exceeding one thousand penalty units or to imprisonment for a term not exceeding three months, or to both.

(As amended by Act No. 13 of 1994)

91. (1) At any hearing before the Court, any party may appear in person or be represented- Representation of parties

(a) by any officer of a trade union or of an association;

(b) by an officer of the Congress or of the Federation; or

(c) by a legal practitioner;

in any proceedings before the Court, the Government may be represented by the Attorney-General or by any other person authorised by him for that purpose.

92. (1) The court may summon witnesses, call for the production and inspection of, books, documents, records and other things, and to examine witnesses.

Powers to summon witnesses

(2) A summons for the attendance of a witness or for the production of books, documents, records or other things shall be signed by the Registrar or Deputy Registrar and served in the same manner as if it were a *subpoena* for the attendance of a witness at a civil trial in the High Court.

(3) Any person giving evidence or summoned to give evidence or to produce any book, document, record or other thing before the Court, shall be entitled to the same privileges and immunities as if he were summoned to attend or were giving evidence in civil proceedings before the High Court.

(4) A person summoned under this section, other than a public officer or a person having an interest in the proceedings for which he is summoned, may on the order of the Court be paid from moneys appropriated by Parliament such allowances as may be prescribed by the Chairman.

93. (1) If any person who has been summoned under section *ninety-two* having reasonable notice of the time and place at which he is required to attend, fails to attend, or fails to remain in attendance until duly excused by the Court from further attendance, the Chairman or Deputy Chairman may, upon being satisfied by the return of the person charged with the service of the summons, that the summons was duly served upon such person, issue a warrant signed by him for the apprehension of the person.

Power to obtain evidence

(2) A person against whom a warrant has been issued under subsection (1), shall be apprehended by any police officer to whom the warrant is delivered and shall be brought before the Court to give evidence or to produce a book, document, record or other thing.

(3) If any person who has been summoned under section *ninety-two*-

- (a) refuses to be sworn or affirmed as a witness;
- (b) having been sworn or affirmed refuses to answer fully and satisfactorily any question he is lawfully required to answer; or
- (c) refuses or fails to produce any book, document, record or other thing and does not excuse his refusal or failure to the satisfaction of the Court;

the Chairman or Deputy Chairman may order that person to be detained in custody, as if he were a prisoner awaiting trial, for any period not exceeding eight days unless he sooner consents to do what is required of him.

(4) Where the person referred to in subsection (3), upon being brought before the Court at an adjourned hearing, further refuses or fails to do what is required of him, the Chairman or Deputy Chairman may, if he sees it fit, adjourn the proceedings and order that person to be detained for a like period until the person consents to do what is required of him.

94. (1) The Court shall deliver judgment within sixty days after the hearing of the case. Judgment of Court

(2) Failure to deliver judgment, within the period stipulated in subsection (1) shall amount to inability by the Chairman or Deputy Chairman to perform the functions of his office and the provisions of the Constitution in dealing with the inability by a judge to perform his functions under the Constitution shall apply. Cap. 1

95. (1) The Registrar or Deputy Registrar shall cause every award, decision or judgment of the Court to be communicated to the parties concerned and to the Commissioner. Publication of judgments of Court

(2) The Chairman may cause to be published in the *Gazette* any award, decision or judgment of the Court which, in his opinion, is of general interest.

96. The Chairman shall, by statutory instrument, make rules regulating the procedure of the Court. Rules of Court

97. Any person aggrieved by any award, declaration, decision or judgment of the Court may appeal to the Supreme Court on any point of law or any point of mixed law and fact. Appeals to Supreme Court

PART XII

GENERAL

98. An act done by a person in contemplation or furtherance of a collective dispute shall not be actionable on the ground that it induces some other person to break a contract of employment, or that it interferes, with the trade, business or employment of some other person, or with the right of that other person to dispose of his capital or labour as he wishes. Immunity of officials of trade unions, congress, associations and Federation

99. (1) An agreement by two or more persons to do, or procure to be done, any act in contemplation or furtherance of a collective dispute shall not be punishable as a conspiracy if such act when committed by one person would not be punishable as a crime. Conspiracy in collective disputes

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(2) An act done in pursuance of an agreement by two or more persons shall not, if done in contemplation or furtherance of a collective dispute, be actionable unless the act, if done without any such agreement would be actionable.

(3) Nothing in this section shall-

- (a) affect the law relating to conspiracy for which punishment is prescribed by any law in force in the Republic; or
- (b) affect the law relating to riot, unlawful assembly, breach of the peace, or sedition.

100. (1) Where any person or in combination with others wilfully break a contract of service or of hire, knowing or having reasonable cause to believe that the probable consequence of their so doing will endanger human life or cause serious bodily injury or expose any property, whether real or personal, to destruction or serious injury, shall be guilty of an offence and liable, upon conviction, to a fine not exceeding four hundred penalty units or to imprisonment for a term not exceeding six months, or to both.

Breach of contract involving injury to persons or property

(2) No prosecution under this section shall be brought except by, or with the written consent of, the Director of Public Prosecutions.

(As amended by Act No. 13 of 1994)

101. (1) No employer or other person shall take part in a lockout which is not in contemplation or furtherance of a collective dispute to which the employer or that person is a party.

Prohibition from participation in lockouts or strikes

(2) No employee, trade union or other person shall take part in a strike which-

- (a) has not been authorised by a strike ballot taken in the manner provided by the constitution of a trade union under this Act; or
- (b) is not in contemplation or furtherance of a collective dispute to which the employee or trade union is a party.

(3) Any employer or other person who does any act in contravention of subsection (1), shall be liable, upon conviction-

- (a) in the case of a body corporate, to a fine not exceeding one thousand penalty units
- (b) in any other case to a fine not exceeding four hundred penalty units.

(4) Any employee, trade union or other person who does any act or incites any person to do any act in contravention of subsection (2), shall be guilty of an offence and shall be liable upon conviction-

- (a) in the case of the trade union, to a fine not exceeding one thousand penalty units; or
- (b) in the case of an employee or other person, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in a trade union for such period as the Court may determine.

(As amended by Act No. 13 of 1994)

102. (1) Any person acting on behalf of a trade union or the Congress in contemplation or furtherance of the settlement of a collective dispute may attend at or near a place not being a dwelling house, where a person works or carries on business, for the purpose of peacefully persuading an employee or an employer involved in the collective dispute to take part in a lawful demonstration:

Attendance at or near place of residence, business or employment for certain purposes

Provided that no person shall intimidate that other person or any other person in that place or obstruct the approach thereto or egress therefrom.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

103. (1) Any person acting in contemplation or furtherance of the settlement of a collective dispute may attend, at or near a dwelling house or place where another person resides or happens to be, for the purpose of peacefully obtaining or communicating information or of persuading or inducing the other person to take part in a strike or a demonstration:

Attendance at or near place of residence

Provided that no person shall intimidate that other person in that place.

(2) Any person who contravenes subsection (1) shall be charged with the offence of watching and besetting such house or place wrongfully and without legal authority within the meaning of subsection (1) of section *one hundred and seventy-three* of the Penal Code, and shall be liable, upon conviction, to a fine not exceeding four hundred penalty units or to imprisonment for a term not exceeding six months or to both.

Cap. 87

(As amended by Act No. 13 of 1994)

104. Any person who wilfully obstructs or hinders the Commissioner, or any other person, in the exercise of any of his powers under this Act shall be liable, upon conviction, to a fine not exceeding four hundred penalty units and may be prohibited from holding office in a trade union or association for such period as the Court may determine.

Obstructing Commissioner, etc

The Laws of Zambia

105. All offences under this Act may be prosecuted before a subordinate court of the first or second class. Prosecution of offences

106. Any person who does any act prohibited by this Act or who omits to do any act which he is required to do under this Act shall be charged with an offence and, where no specific penalty is provided by this Act in respect of such act or omission, he shall be liable, upon conviction, to a fine not exceeding one thousand penalty units and, in the case of an individual, he may also be barred from holding office of a trade union or association for such period as the Court may determine. General penalty

(As amended by Act No. 13 of 1994)

107. (1) Every employee engaged or employed in an essential service shall be issued by his employer with an essential service certificate in such form and in such manner as may be prescribed and such certificate shall be *prima facie* evidence for the purpose of any inquiry or proceedings under this section that the person to whom such certificate has been issued is engaged or employed in an essential service and that the attention of such employee has been drawn to the provisions of this section. Essential service certificates

(2) Any person engaged or employed in an essential service who, without just cause or excuse (the onus of proof shall lie on him), does any act, or omits to do any act, the doing or the omission of which is likely to hinder or interfere with the carrying on of an essential service, shall be guilty of an offence.

(3) No employer or other person shall take part in a lockout and no employee, trade union or other person shall take part in a strike which is likely to hinder or interfere with the carrying on of any essential service.

(4) No person engaged in an essential service shall be eligible for payment of his salary if such person goes on strike or go-slow.

(5) Any person who incites or encourages a person engaged or employed in an essential service to do any act, or omit to do any act, the doing or the omission of which is likely to hinder or interfere with the carrying on of an essential service, shall be guilty of an offence.

(6) A police officer may arrest without warrant any person whom he has reasonable grounds to believe is acting in contravention of this section, and any person who obstructs a police officer in the execution of his duties under this subsection shall be guilty of an offence.

(7) Any person who contravenes subsection (2), (4) or (5) shall be liable, upon conviction, to a fine not exceeding one thousand penalty units or to imprisonment for a term not exceeding six months and may be prohibited from holding office in a trade union for such period as the Court may determine.

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(8) Any employer or other person who contravenes subsection (3) shall be guilty of an offence and shall be liable, upon conviction-

- (a) in the case of a body corporate, to a fine not exceeding one thousand penalty units; or
- (b) in any other case, to a fine not exceeding four hundred penalty units.

(9) Any employee, trade union or other person who contravenes subsection (3) shall be guilty of an offence and shall be liable, upon conviction-

- (a) in the case of the trade union, to a fine not exceeding one thousand penalty units; or
- (b) in the case of the employee or other person, to a fine not exceeding two hundred penalty units.

(10) For the purpose of this section, "essential service" means-

- (a) any service relating to the generation, supply or distribution of electricity;
- (b) any hospital or medical service;
- (c) any service relating to the supply and distribution of water;
- (d) any sewerage service;
- (e) any fire brigade; or
- (f) any service for the maintenance of safe and sound conditions in a mine of-
 - (i) underground working and drainage;
 - (ii) shafts and shaft installations; or
 - (iii) machinery and plant.

(As amended by Act No. 13 of 1994)

108. (1) No employer shall terminate the services of an employee or impose any other penalty or disadvantage on any employee, on grounds of race, sex, marital status, religion, political opinion or affiliation, tribal extraction or social status of the employee.

Restriction on
discrimination in
employment

(2) Any employee who has reasonable cause to believe that the employees' services have been terminated or that the employee has suffered any other penalty or disadvantage, or any prospective employee who has reasonable cause to believe that the employee has been discriminated against, on any of the grounds set out in subsection (1) may, within thirty days of the occurrence which gives rise to such belief, lay a complaint before the Court:

Provided that the Court may extend the thirty-day period for a further three months after the date on which the complainant has exhausted the administrative channels available to him.

(3) The Court shall, if it finds in favour of the complainant-

- (a) grant to the complainant damages or compensation for loss of employment;
- (b) make an order for re-employment or reinstatement in accordance with the gravity of the circumstances of each case.

109. (1) The Minister may, by statutory instrument, make regulations governing the conduct of ballots for any representative body, and such regulations may include provisions relating to the giving of notices to any person qualified to vote in such ballots.

Conduct of ballots

(2) Where a secret ballot is to be held in more than one place in connection with any matter, it shall be held in all such places on the same day or days and between the same hours.

110. (1) Any interested person who has reasonable grounds to believe that the election of any person to any office in a representative body has been conducted in an irregular manner, that person may, not later than twenty-one days after the holding of such election, lay a complaint before the Court.

Complaints against irregularities in elections

(2) The Court may, if it is satisfied that an irregularity has occurred in the conduct of any election, declare the election null and void and order fresh elections to be conducted under the supervision of such person, and on such conditions, as the Court may determine.

111. The Minister shall each year lay before the National Assembly a report on the working of this Act.

Report to National Assembly

112. The Minister may, by statutory instrument, make regulations for the purpose of giving effect to the provisions of this Act.

Regulations by Minister

113. (1) The Industrial Relations Act, 1990, is hereby repealed.

Repeal and savings
Act No. 36 of 1990

(2) Notwithstanding the repeal of the Industrial Relations Act, 1990, any statutory instrument or directive issued or made under that Act shall remain in force, so far as it is not inconsistent with this Act until revoked or cancelled under this Act.

SCHEDULE

(Sections 11, 29, 42, 56)

The Constitution of every representative body shall include-

- (a) the name of the representative body and the address of its registered office in Zambia;
- (b) the principal objects for which the representative body is established and the class or classes of employees or employers which the representative body shall represent:

Provided that-

- (i) a representative body may include in its constitution objects other than principal objects and, subject to the other provisions of this Act, any such representative body shall have power to apply its funds for any lawful objects authorised under its constitution;
- (ii) no objects of any representative body shall not, by reason that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust;
- (c) the purposes to which the funds of the representative body may be applied;
- (d) the organisational structure of the representative body, the mode of appointment and removal of the officers responsible for the administration of the representative body and the powers and duties of such officers;
- (e) the payment of subscriptions and fees by the members and the method of collection and the grounds for disqualifying a member from voting on any matter concerning the representative body;
- (f) the vesting and safe custody of the funds and property of the trade representative body, the banking and investment of its funds, and the maintenance, inspection and periodic auditing of its accounts and all other financial records;
- (g) provision for disqualification from election or appointment to any office in the representative body of any office holder who has misappropriated the funds of the representative body;
- (h) the election of the officers within six months after registration of a representative body and thereafter, at regular intervals of not more than four years;
- (i) the election of not less than two and not more than four trustees of the representative body;
- (j) the election by secret ballot supervised by a proper officer for a strike;
- (k) the procedure for amending the constitution of the representative body; and
- (l) a provision to ensure that all classes of members of a representative body are adequately and effectively represented on all organs of a representative body.

SUBSIDIARY LEGISLATION

CHAPTER 269

THE INDUSTRIAL RELATIONS ACT

CAP. 269

SECTION 109-THE CONDUCT OF BALLOT REGULATIONS

Statutory Instrument
65 of 1991

Regulations by the Minister

- 1.** These Regulations may be cited as the Conduct of Ballot Regulations, and shall apply to every ballot conducted by a trade union, the Congress, association, the Federation or any other body of members thereof. Title and application
- 2.** Where a trade union, the Congress, association or the Federation is required to conduct a ballot it shall- Notification of ballot
- (a) not less than seventy-two hours before the ballot is held, notify the proper officer in writing specifying the matter to be determined and the day and the time when balloting shall take place;
 - (b) not less than twenty-four hours before the ballot is held, furnish to the proper officer a list of the persons who are eligible to vote in the ballot together with such other particulars concerning such persons as the proper officer may require;
 - (c) on the request of the proper officer, furnish him with such evidence, by affidavit or otherwise, as he may require as to the eligibility to vote of all or any of the persons referred to in paragraph (b);
 - (d) before the ballot is conducted, give adequate notice of such intention to its members:
- Provided that in the case of a strike ballot or lockout ballot not less than forty-eight hours notice shall be given to the members before such ballot is conducted.
- 3.** The proper officer in consultation with a trade union, the Congress, association or the Federation, as the case may be, shall appoint a place or places at which the voting point shall be established. Establishment of voting points
- 4.** Every voting point shall throughout the period of voting be supervised by a proper officer who shall keep order thereat, and shall regulate the number of voters to be admitted to such point at any one time. Supervision of voting points
- 5.** If the proper officer so directs, the trade union, Congress, association or Federation shall not less than one hour before the voting is held, provide, to the satisfaction of the proper officer, enclosed voting booths, chairs and tables in such number as may be necessary. Equipment at voting points

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6. For the purpose of enabling voters to cast their votes for or against the proposal to be determined by the ballot, the proper officer shall- Distinguishing ballot boxes, etc.

- (a) determine the number of ballot boxes to be put in voting booth;
- (b) ensure that each ballot box is clearly distinguished from the other, by colour or by a mark affixed to it;
- (c) affix notice at the entrance to each voting booth stating the proposal to be determined by the booth;
- (d) take such steps as may seem to him necessary to explain to voters the purpose and method of voting.

7. Each ballot box shall be constructed in such a manner that the balloting tokens can be freely introduced therein but cannot be withdrawn therefrom without the box being unlocked, cut or broken open. Structure of ballot boxes

8. (1) Immediately before a ballot is held, the presiding officer shall show each ballot box empty to Condition of ballot boxes

- (a) any representative of a trade union, the Congress, association or the Federation who may be present and who has previously made his presence known to the proper officer;
- (b) such other persons as may be present.

(2) The proper officer shall ensure that the ballot box is sealed in a manner that it cannot be opened without breaking the seal.

9. Every ballot shall be conducted in accordance with the following provisions, that is to say- Conduct of ballot

- (a) every voter taking part in a ballot shall present himself to the proper officer at a voting point during the hours laid down for the taking of the ballot and shall before recording his vote, identify himself by the production of his membership card or otherwise, as the proper officer may direct;
- (b) the proper officer shall mark off the name or number of each voter on the list provided under paragraph (b) of regulation 2;
- (c) the proper officer shall then deliver to the voter a token marked with an official mark in such form as the proper officer may direct and any token not so marked shall be void and shall not be counted;
- (d) the voter shall then-
 - (i) enter the balloting booth alone;
 - (ii) record his vote by placing the token in the ballot box or boxes as the case may be, provided therein; and

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(iii) leave the balloting booth without delay.

10. As soon as practicable after the close of each day of voting, the proper officer shall at each voting point seal each ballot box, and all the ballot boxes together shall be locked by him in such place as he may provide for the purpose.

Sealing of ballot boxes after voting

11. Any person otherwise eligible to vote at any voting point who, at the time of voting, finds himself at another voting point may cast his vote at that point:

Voting at other voting points

Provided that-

- (a) he can satisfactorily identify himself to the proper officer at the voting point where he wishes to cast his vote, and
- (b) he is in possession of a letter from a responsible official of the trade union, Congress association or Federation as the case may be, stating that he is eligible to vote in the ballot; or
- (c) any proper officer at the voting point where such person wishes to cast his vote has been advised by telegram or otherwise in terms similar to those specified under paragraph (b).

12. The trade union, Congress, association or Federation may appoint no more than three representatives to attend at the counting of votes after the ballot has been closed.

Representative at counting of votes

13. (1) Except in the case of a ballot conducted at more than one voting point, the proper officer at each voting point shall, as soon as practicable after the close of voting, count the votes and record the result of the ballot in the presence of representatives referred to under regulation 12 and the result so recorded shall be published in such a manner as the proper officer may direct.

Counting of votes

(2) Where a ballot is conducted at more than one voting point the ballot figures for all voting points shall be added together so as to record the total results of the ballot and the result shall be published in such manner as the Labour Commissioner may direct.

SECTION 112-THE REPRESENTATIVE BODY (REGISTRATION AND PRESCRIBED FORMS) REGULATIONS

Statutory Instrument
73 of 1994

Regulations by the Minister

1. These Regulations may be cited as the Representative Body (Registration and Prescribed Forms) Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

The Laws of Zambia

"representative body" means any representative body under the Industrial and Labour Relations Act, 1993, and includes a trade union, the Congress, an association and the Federation. Cap. 269

3. An application for registration as a representative body, shall be in Form 1 set out in the Schedule. Registration as representative

4. An employee engaged or employed in an essential service as provided for under section *one hundred and seven* of the Industrial and Labour Relations Act, shall be issued with an essential service certificate by his employer in Form 7 set out in the Schedule. Essential service certificate

5. The forms set out in the Schedule to these Regulations are hereby prescribed for the purpose mentioned in each form. Prescribed forms

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SCHEDULE

Form 1

PRESCRIBED FORMS

(Regulation 3)

THE INDUSTRIAL AND LABOUR RELATIONS ACT

Cap. 269

The Representative Body (Registration and Prescribed Forms) Regulations.

APPLICATION FOR REGISTRATION OF REPRESENTATIVE BODY

The Laws of Zambia

1. This application is made by-
 - (a) not less than one hundred trade union members; or
 - (b) not less than five association members or such lesser number as the Commissioner may accept.
2. The representative body shall be registered in the name of
.....
.....
as set out in rule No.
of the constitution of the representative body.
3. To the best of our belief, there is no other existing representative body registered in the name identical to or so nearly resembles the names of this representative body, so as to cause confusion to its members and the public at large.
4. The representative body was established on the day of in the year.....,by a resolution of the general meeting of the said representative body and an authenticated copy of such a resolution is hereby attached to this application.
5. The registered office of the representative body to which all communications and notices may be addressed is at
as set out in rule No. of the constitution of the representative body.
6. The objects for which the representative body is established, and the class or classes or category or categories of employees or employers as the case may be which the representative body shall represent is set out in rule No. of the constitution of the representative body.
7. The provision for the organisational structure of the representative body, the mode of appointment and removal of officers responsible for the administration of the representative body and the powers and duties of such officers are set out in rule No. of the constitution of the representative body.
8. The purpose to which the funds of the representative body may be applied are set out in rule No. of the constitution of the representative body.
9. The provision for the payment of subscriptions and fees by the members and the methods of collection thereof are set out in rule No. of the constitution of the representative body.
10. The provision for the vesting and safe custody of the funds and property of the representative body, and the banking and investment of the funds, maintenance, inspection and periodical auditing of its accounts and other financial records are set out in rule No. of the constitution of the representative body.
11. The provisions for disqualification of a member from voting on any matter concerning the representative body or from election or appointment to any office in the representative body of an office holder who has the function of dealing with the funds or to any office in the representative body or its organs are set out in rule No. of the constitution of the representative body.
12. The provision for election of officers within six months after registration of the representative body, and thereafter at regular intervals of not more than four years are set out in rule No. of the constitution of the representative body.
13. The provision for ensuring that all categories of members of the representative body are adequately and effectively represented on all the organs of the representative body are provided for in rule No. of the constitution of the representative body.
14. The provision for the manner of dissolving the representative body are set out in rule No.....of the constitution of the representative body.
15. The provision for ensuring the secrecy of any ballot regarding the taking of decisions-
 - (a) for the election of delegates, trustees or other officers;
 - (b) affiliation or disaffiliation to national or international organisations;
 - (c) on any proposal to dissolve the representative body or to reconstitute it so as to split it into two or more representative bodies;
 - (d) on any proposal to amalgamate it with one or more representative bodies, are set out in rule No.....of the constitution of the representative body.

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16. The procedure for amending or altering the constitution of the representative body is provided for in rule No. of the constitution of the representative body.

17. The provision for safe-guarding the rights of individual members to a reasonable opportunity to vote in all matters concerning the representative body or to stand for any position in the representative body are set out in rule No. of the constitution of the representative body.

18. Accompanying this application are two copies of the constitution authenticated by duly authorised officers of the representative body.

19. The names and titles of officers of the representative body (including trustees) are as follows-

<i>Name</i>	<i>Address</i>	<i>Designation</i>
(a)
(b)
(c)
(d)
(e)
(f)
(g)
(h)
(i)
(j)
(k)

20. We, the undersigned, have been duly authorised by the representative body to make this application on its behalf. (The number required to make this application should be as indicated in paragraph 1).

<i>Name</i>	<i>Employer</i>	<i>Address</i>	<i>Signature</i>
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			

THE INDUSTRIAL AND LABOUR RELATIONS ACT
(Cap. 269)

The Representative Body (Registration and Prescribed Forms) Regulations

(Regulation 5)

CERTIFICATE OF REGISTRATION

No.
IT IS HEREBY CERTIFIED that the
whose registered office is situated at
has been duly registered under the Industrial and Labour Relations Act, 1993, as a representative body for
this day of, the year

Signed:

Name:.....

Commissioner

THE INDUSTRIAL AND LABOUR RELATIONS ACT
(Cap. 269)

The Representative Body (Registration and Prescribed Forms) Regulations

(Regulation 5)

APPLICATION FOR REGISTRATION OF ALTERATION OR ADDITION TO THE REPRESENTATIVE BODY'S
CONSTITUTION

Name of Representative Body
Certificate of Registration No.
Registration office situated at

1. This application for the registration or alteration or addition to the constitution of the above named representative body is made by-

- (a) seven members in case of trade union; or
- (b) four members in case of employer's association, whose names are subscribed at the foot hereof including the executive officers.

2. The applicants have been duly authorised to make this application on behalf of the said representative body, such authority consisting of a resolution passed at a general meeting held on the day of in the year

3. With this application are sent-

- (a) a copy of the resolution or other authority authorising the alteration or addition to the constitution and signed by each of the applicants with their name and designation against each signature;
- (b) two copies of the previous registered constitution amended or underlined in red showing where and in what manner alterations or addition have been made.

4. We, the persons whose names, signatures and designations are subscribed at the foot hereof, have made this application on behalf of the said representative body satisfied that the rules of the constitution were duly complied with.

<i>Name</i>	<i>Signature</i>	<i>Designation</i>
1.		
2.		
3.		
4.		
5.		
6.		
7.		

THE INDUSTRIAL AND LABOUR RELATIONS ACT
(Cap. 269)

The Representative Body (Registration and Prescribed Forms) Regulations, 1994

(Regulation 5)

REQUEST TO CANCEL CERTIFICATE OF REGISTRATION

Name of the Registration Body

Certificate of Registration No.

To: THE COMMISSIONER

1. The above-named representative body desires that its certificate of registration under the Industrial and Labour Relations Act, 1993 may be cancelled on the following grounds:

(State reasons
for desiring
cancellation
of the
certificate
of registration)

2. (1) The request is duly made following a general meeting on day of 19..... during which it was resolved as follows:

"that the trustees be authorised to request the commissioner to cancel the certificate of registration of this representative body"

(2) If not at the general meeting, state in what manner the request has been determined:

.....
.....
.....

3. This request is made on behalf of the representative body accordingly.

Name Designation Signature

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

Note: Seven officers are required in case of trade unions whilst four officers are required for employers' associations.

Registered Office

Name and address to which communications are to be sent

THE INDUSTRIAL AND LABOUR RELATIONS ACT

The Representative Body (Registration and Prescribed Forms) Regulations

(Regulation 5)

To: The Commissioner P.O. Box 32186 Lusaka

I/We (name and address of employer)

.....

.....

carrying on the business of

at

and employing eligible employees, do hereby apply for registration as an

employer under section *sixty-three* of the Act.

Dated the..... day of

..... 19.....

Signature

Designation:

THE INDUSTRIAL AND LABOUR RELATIONS ACT
(Cap. 269)

The Representative Body (Registration and Prescribed Forms) Regulations

(Regulation 5)

CERTIFICATE OF REGISTRATION

IT IS HEREBY CERTIFIED that (name and address of employer)

.....

.....

carrying on the business of

is registered as an employer under section *sixty-three* of the Act.

Dated the day of 19.....

Signature:

Name:

Commissioner

THE INDUSTRIAL AND LABOUR RELATIONS ACT
(Cap. 269)

The Representative Body (Registration and Prescribed Forms) Regulations

(Regulation 5)

ESSENTIAL SERVICE CERTIFICATE

Name and address of employer

Name of employee:

Employee's National Registration Card No.

Capacity in which employed

This is to certify that the employee mentioned herein is employed in an essential service (specify it here)

Dated this day of 19.....

Signed:

Signed:

Name:

Name:

(Employee)

(Employer)

Note: This certificate must be prepared in duplicate and one copy to be handed to the employee and the other copy to be retained by the employer.

THE INDUSTRIAL RELATIONS COURT RULES

ARRANGEMENT OF RULES

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2. Interpretation

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APPLICATIONS TO THE COURT

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4. Institution of proceedings
5. Serving of notice of application
6. Respondent's answer
7. Disposal of application

PART III

COMPLAINTS TO THE COURT

8. Application of Part III
9. Institution of proceedings
10. Service of notice of complaint
11. Respondent's answer
12. Disposal of complaint

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APPEALS TO THE COURT

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14. Institution of appeal
15. Time for appealing
16. Service of notice of appeal
17. Respondents to appeals
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REFERENCE OF A COLLECTIVE DISPUTE TO THE COURT

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21. Reference of a collective dispute to the Court
22. Registration of reference
23. Date and place for giving directions
24. Statement of claim and answer
25. Further and better particulars
26. Witnesses and hearing
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REFERENCE UNDER SECTION 28 (4) OF A DISPUTE BETWEEN TRADE UNIONS

28. Reference under section 28 (4)
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PART I

PRELIMINARY

1. These Rules may be cited as the Industrial Relations Court Rules.*(1)

Title

* These Rules made under the repealed Act are continued in operation by section 15 of the Interpretation and General Provisions Act (Cap. 2).

2. In these Rules, unless the context otherwise requires-

Interpretation

"Act" means the Industrial Relations Act;

"Registrar" means the Registrar of the Court and includes any officer of the Court authorised by the Chairman to perform the functions of the Registrar;

"Court" means the Industrial Relations Court established under section *ninety-six*;

"Judge" means the Chairman or the Deputy Chairman;

"Part" means a Part of these Rules;

"seal" means any device capable of making an imprint, whether embossed or otherwise, on paper.

PART II

APPLICATIONS TO THE COURT

- 3.** This Part applies to applications to the Court under- Application of Part II
section 17 (injunction against an officer of a trade union);
section 44 (injunction against an officer of an association);
section 74 (3) (determination of alleged contravention of written laws or infringement of collective agreements, works agreements or works rules);
section 88 (interpretation of any clause in a collective agreement);
section 99 (1) (declaration by the Court); and
section 102 (Court to resolve ambiguities in collective agreements, its awards and decisions).
- 4.** An application to which this Part applies shall be made by serving on the Court notice in writing in, or substantially in accordance with, the appropriate form in Part A of the Schedule. Institution of proceedings
- *These Rules made under the repealed Act are continued in operation by section 15 of the Interpretation and General Provisions Act (Cap. 2).
- 5.** On receipt of a notice under rule 4, the Registrar shall register the notice in the Court register and endorse the registration number thereon and seal the notice with the Court's seal, and shall return a sealed copy of the notice to the applicant and serve a sealed copy thereof on any other person considered by the Court to be a proper party to the proceedings, and every such person shall be a respondent to the application. Serving of notice of applications
- 6.** (1) The Registrar shall, as soon as practicable, notify every respondent of the date appointed by the Court by which an answer to the application must be delivered. Respondent's answer
- (2) A respondent who desires to oppose the application shall, within the time appointed under sub-rule (1), deliver to the Court an answer in, or substantially in accordance with, Form IRC 7 contained in Part A of the Schedule, setting out his answer and the Registrar shall serve a copy of such answer on every party to the proceedings.
- 7.** (1) If all parties to the proceedings have concurred in, or consented to, the application, or if no answer is delivered under rule 6 (2), the Court may, if it thinks fit, deal with the application without a hearing. Disposal of application

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(2) Except where the Court deals with the application under sub-rule (1), the Registrar shall, as soon as practicable, give to every party to the proceedings notice of the arrangements made by the Court for hearing the application and shall notify every party of the date appointed by the Court by which any interlocutory application may be made.

(3) The Court may, if it thinks fit, deal with an application to which this Part relates without an oral hearing notwithstanding that the application is opposed, but the Court shall not do so unless-

- (a) all parties to the proceedings consent; or
- (b) any party desiring an oral hearing has been given an opportunity of applying to the Court for such hearing and the Court is satisfied that no injustice can be caused if the application is dealt with without an oral hearing.

PART III

COMPLAINTS TO THE COURT

8. This Part applies to complaints presented to the Court under- Application of Part III
section 114 (2) (complaint of discrimination in employment);
section 120 (1) (complaint in respect of irregularities in election).

9. A complaint to which this Part applies shall be presented by serving on the Court notice in writing in, or substantially in accordance with, the appropriate form in Part B of the Schedule. Institution of proceedings

10. On receipt of a notice under rule 9, the Registrar shall register the notice in the Court register and endorse the registration number thereon and seal the notice with the Court's seal, and shall return a sealed copy of the notice to the complainant and serve a sealed copy thereof on any person from whom any relief is claimed (and on any other person considered by the Court to be a proper party to the proceedings), and every such person shall be a respondent to the complaint. Service of notice of complaint

11. (1) The Registrar shall, as soon as practicable, notify every respondent of the date appointed by the Court by which an answer to the complaint must be delivered. Respondent's answer

(2) A respondent who desires to answer a complaint shall, within the time appointed under sub-rule (1), deliver to the Court an answer in, or substantially in accordance with, Form IRC 10 contained in Part B of the Schedule, setting out his answer to the complaint, and the Registrar shall serve a copy of such answer on every other party to the proceedings.

12. The Registrar shall, as soon as practicable, give to every party to the proceedings notice of the arrangements made by the Court for hearing the complaint, and shall notify every such party of the date appointed by the Court by which any interlocutory application may be made.

Disposal of complaint

PART IV

APPEALS TO THE COURT

13. This Part applies to appeals under-

Application of Part IV

section 10 (1) (appeal from the decision of the Commissioner);
section 28 (3) (appeal from decision on disputes between trade unions);
section 37 (1) (appeal from the decision of the Commissioner);
section 59 (4) (appeal from the decision of a trade union);
section 73 (4) (appeal from decision of the Board of Review).

14. An appeal to which this Part applies shall be instituted by serving on the Court, within the time allowed under rule 15, notice in writing in, or substantially in accordance with, the appropriate form in Part C of the Schedule, together with a copy of the refusal, decision or cancellation, as the case may be, against which the appeal is lodged.

Institution of appeal

15. A notice under rule 14 shall be served within thirty days of the date of the notification to the appellant of the refusal, decision or cancellation, as the case may be, against which the appeal is lodged.

Time for appealing

16. On receipt of a notice under rule 14, the Registrar shall register the notice in the Court register and endorse the registration number thereon and seal the notice with the Court's seal, and shall return a sealed copy of the notice to the appellant and serve a sealed copy thereof on every person who, in accordance with rule 17, is a respondent to the appeal.

Service of notice of appeal

17. The respondents to an appeal shall be-

Respondents to appeals

(a) in the case of an appeal under section 10 (1) or 37 (1), the Commissioner;
(b) in the case of an appeal under section 28 (3), the Congress;
(c) in the case of an appeal under section 59 (4), the trade union in question;
and
(d) in the case of an appeal under section 73 (4), parties to the proceedings before the Board of Review, other than the appellant.

18. (1) The Registrar shall, as soon as practicable, notify every respondent of the date appointed by the Court by which any answer under sub-rule (2) shall be delivered. Respondent's answer

(2) Subject to sub-rule (3), a respondent who wishes to resist an appeal shall within the time appointed under sub-rule (1) deliver to the Court an answer in, or substantially in accordance with, Form IRC 16 contained in Part C of the Schedule, setting out the grounds on which he relies, and the Registrar shall serve a copy of such answer on every other party to the proceedings.

(3) A respondent who wishes to cross-appeal may do so by including in an answer delivered under sub-rule (2) a statement of the grounds of his cross-appeal.

19. The Registrar shall, as soon as practicable, give to every party to the proceedings notice of the arrangements made by the Court for hearing an appeal, and shall notify every such party of the date appointed by the Court within which any interlocutory application may be made. Disposal of appeal

PART V

REFERENCE OF A COLLECTIVE DISPUTE TO THE COURT

20. This Part applies to a reference of a collective dispute made to the Court by the Minister. Application of Part V

21. (1) A reference of a collective dispute made to the Court by the Minister under the provisions of section 93 (3) shall be made in writing in, or substantially in accordance with, Form IRC 17 contained in Part D of the Schedule. Reference of a collective dispute to the Court

(2) A reference of a collective dispute made to the Court by the Minister under the provisions of section 95 (1) shall be made in writing in, or substantially in accordance with, Form IRC 18 contained in Part D of the Schedule.

(3) A reference of a collective dispute shall be accompanied by a notification in writing in, or substantially in accordance with, Form IRC 19 contained in Part D of the Schedule, stating the details of the issues in the collective dispute.

22. When a reference of a collective dispute is made to the Court by the Minister, the Court shall take cognizance of the dispute and register the dispute in the Court register. Registration of reference

23. The Court shall notify the parties to a collective dispute referred to the Court of the registration number of such dispute and shall fix the date and place for giving directions as to the further conduct of the dispute.

Date and place for giving directions

24. Each party to a collective dispute referred to the Court shall, within such period as the Court may direct, being not less than seven days after the date of such direction, present to the Court-

Statement of claim and answer

(a) in the case of the claimant, a statement of claim in writing in, or substantially in accordance with, Form IRC 20 contained in Part D of the Schedule, setting out-

(i) the nature and full particulars of each item of the claim or demand involved in the dispute and as stated in the terms of reference to the Court;

(ii) the class or classes of workers to whom the dispute relates; and

(iii) such submissions as the claimant party may wish to make in support of its claim;

(b) in the case of the respondent, an answer in, or substantially in accordance with, Form IRC 21 contained in Part D of the Schedule, setting out-

(i) such answer as it may wish to give to the items of the claim of demand raised in the statement of claim;

(ii) an admission of such submissions set out in the statement of claim as the respondent admits, and a denial of such submissions as the respondent does not admit; and

(iii) any submissions which the respondent may wish to make in support of its answer;

and shall at the same time supply to the other party a copy of such answer.

25. Where the Court considers that either the statement of claim or the answer does not set out adequately the particulars required by the Court or for any other reason the Court requires clarification or amplification of any submission by a party, the Court may require the party to provide such further details as it may consider necessary within such period as it may determine, and the party so required shall provide to the Court and the other party to the dispute such clarification and amplification as is required.

Further and better particulars

26. (1) Each party shall notify the Court when submitting the statement of claim or answer, as the case may be, of any witnesses he proposes to call and shall at the same time notify the other party to the dispute, but a party may call further witnesses with the leave of the Court.

Witnesses and hearing

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(2) The Court shall notify the parties of the date and place of the hearing of the dispute.

27. An award shall be communicated to the parties to a dispute in such manner as the Court may deem fit. Award

PART VI

REFERENCE UNDER SECTION 28 (4) OF A DISPUTE BETWEEN TRADE UNIONS

28. A reference to the Court under section 28 (4) of the Act of a dispute between trade unions shall be made in writing in, or substantially in accordance with, Form IRC 22 contained in Part D of the Schedule. Reference under section 28 (4)

29. When a reference of a dispute is made to the Court under rule 28, the Court shall take cognizance of the dispute and register the dispute in the Court register, and the provisions of rule 23 shall apply *mutatis mutandis* to such reference. Cognizance of a dispute

PART VII

GENERAL PROVISIONS APPLYING TO ALL PROCEEDINGS

30. This Part applies to all proceedings before the Court. Application of Part VII

31. Any proceedings before the Court may be dealt with at such time and place as the Court may from time to time direct. Time and place of proceedings

32. The Court may, on the application of any person or of its own motion, direct that any person not already a party to proceedings be added as a party, or that any party to proceedings shall cease to be a party, and in either case may give such consequential directions as it considers necessary. Joinder of parties

33. (1) Without prejudice to rule 36, an interlocutory application may be made by giving notice in writing to the Court, specifying the directions or order sought. Interlocutory applications

(2) On receipt of a notice under sub-rule (1), the Registrar shall serve a copy thereof on every other party to the proceedings who appears to him to be concerned in the matter to which the notice relates and shall notify the applicant and every such other party of the arrangements made by the Court for dealing with the application.

34. A single Judge of the Court may exercise any powers vested in the Court not involving the final determination of a dispute or other matter, hereafter referred to as an interlocutory matter. Powers of a single Judge

35. (1) Where an interlocutory order is made by a Judge in pursuance of rule 34, any party aggrieved by the order may appeal to the Court. Appeal from interlocutory orders

(2) Notice of appeal under sub-rule (1) may be given to the Registrar, either orally or in writing, within three days of the order appealed from and the Registrar shall notify every other party who appears to him to be concerned in the appeal and shall inform every such party and the appellant of the arrangements made by the Court for dealing with the appeal.

36. (1) Where it appears to the Court that the future conduct of any proceedings would thereby be facilitated, the Court may (either of its own motion or on application) at any stage of the proceedings appoint a date for the giving of directions as to their future conduct and thereupon the following provisions of this rule shall apply. Directions

(2) The Registrar shall give to every party to the proceedings notice of the date appointed under sub-rule (1) and any party applying for directions shall, if practicable, before that date give to the Court particulars of any directions applied for.

(3) The Registrar shall take such steps as may be practicable to inform every party of any directions applied for by any other party.

(4) On the date appointed under sub-rule (1), the Court shall consider any application for directions made by any party and any written representation relating thereto and shall give such directions as it thinks fit for the purpose of securing the just, expeditious and economical disposal of the proceedings, including, where appropriate, directions in pursuance of rule 46 for the purpose of ensuring that the parties are enabled to avail themselves of opportunities for conciliation.

(5) Without prejudice to the generality of sub-rule (4), the Court may give such directions as it thinks fit as to-

- (a) the amendment of any notice, statement of claim, answer or other document;
- (b) the giving of further and better particulars;
- (c) the delivery of interrogatories;

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- (d) the admission of any facts or documents;
- (e) the discovery or further discovery of any documents;
- (f) the mode in which evidence is to be given at the hearing;
- (g) the consolidation of the proceedings with any other proceedings pending before the Court; and
- (h) the place and date of the hearing.

(6) An application for further directions, or for a variation of any directions already given, may be made in accordance with rule 33.

37. Without prejudice to rule 36, the Court may, at any stage of the proceedings, of its own motion give any party to the proceedings directions as to any steps to be taken by him in relation thereto. Court's power to give direction

38. The Court may, on the application of any party, make, as an interim order, any order which under the Act it could make as a final order in the proceedings. Interim orders

39. (1) Any party may, not less than fourteen days before the date fixed for the hearing, serve notice on any other party requiring him to admit (saving all just exceptions) the authenticity of any documents specified in the notice, and unless that other party, within seven days of service of the notice upon him, gives notice to the first party requiring the document to be proved at the hearing, he shall be deemed, unless the Court otherwise directs, to have admitted its authenticity. Notice to admit documents and facts

(2) Any party may, not less than fourteen days before the date fixed for the hearing, give to any other party notice to admit, for the purpose of the proceedings, any facts specified in the notice, and the Court shall, in exercising its discretion as to making an order for costs or expenses under rule 44, take into consideration any unreasonable failure to admit, or delay in admitting, such facts.

40. A party to any proceedings may apply to the Court for an order directing any other party to make discovery or further discovery, either on oath or otherwise, of the documents relating to the proceedings which are or have been in his possession or power, and on the hearing of the application the Court may make such order, either generally or limited to certain classes of documents or to particular documents, as it thinks fit, including an order for the production or inspection of any documents. Discovery of documents

41. (1) A party to any proceedings may apply to the Court for an order requiring any other party to answer interrogatories (or, as may be appropriate, a statement of facts), and the Court may give such directions as it thinks fit for the submission to the Court and service on any other party of the interrogatories or statement before the hearing of the application.

Interrogatories

(2) A body corporate or an unincorporated association shall answer any interrogatories or statement of facts by its director, manager, secretary or other officer.

42. If a respondent to any proceedings fails to deliver an answer within the time appointed under these Rules, or if any party to proceedings fails to comply with an order or direction of the Court, the Court may order that he be debarred from taking any further part in those proceedings (except for the purpose of being heard on any application for discovery or recovery of documents, or the answering of interrogatories or a statement of facts, or the payment of costs or expenses by him), or may make such other order as the court thinks just.

Default by parties

43. Every order of the Court shall be drawn up by the Registrar and a copy, sealed with the seal of the Court, shall be served by the Registrar on every party to the proceedings to which it relates.

Drawing up and enforcement of orders

44. (1) Where it appears to the Court that any person has been guilty of unreasonable delay, or of taking improper, vexatious or unnecessary steps in any proceedings, or of other unreasonable conduct, the Court may make an order for costs or expenses against him.

Costs

(2) Where an order is made under sub-rule (1), the Court may direct that the party against whom the order is made shall pay to any other party a lump sum by way of costs or expenses, or such proportion of the costs or expenses as may be just, and in the last mentioned case may itself assess the sum to be paid, or may direct that it be assessed by the Registrar, from whose decision an appeal shall lie to the Court.

45. (1) Any notice or other document required or authorised by these Rules to be served on, or delivered to, any person may be sent to him by post to his address for service or, where no address for service has been given, to his registered office, principal place of business or last known address, and any notice or other document required or authorised to be served on, or delivered to, the Court may be sent by post or delivered to the Registrar.

Service of documents

(2) A document served by post shall be assumed, in the absence of evidence to the contrary, to have been delivered in the normal course of post.

(3) The Court may inform itself in such manner as it thinks fit of the posting of any document by an officer of the Court.

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(4) Any notice or other document required or authorised to be served on, or delivered to, an unincorporated body may be sent to its secretary, manager or other similar officer.

(5) The Court may direct that service of any document be dispensed with or be effected otherwise than in the manner prescribed by these Rules.

46. In exercising its powers under these Rules, the Court may, whether by adjourning any proceedings or otherwise, use its best endeavours to ensure that, in any case in which it appears to the Court that there is a reasonable prospect of agreement being reached between the parties, they are enabled to avail themselves of the services of conciliation officers or of other opportunities for conciliation.

Conciliation

47. The time prescribed by these Rules or by order of the Court for doing any act may be extended (whether it has already expired or not) or abridged, and the date appointed for any purpose may be altered, by order of the Court.

Extension or
abridgment of time

48. (1) Failure to comply with any requirements of these Rules shall not invalidate any proceedings unless the Court otherwise directs.

Non-compliance with,
and waiver of, rules

(2) The Court may, if it considers that to do so would lead to the more expeditious or economical disposal of any proceedings, or would otherwise be desirable in the interests of justice, dispense with the taking of any step required or authorised by these Rules, or may direct that any such step be taken in some manner other than that prescribed by these Rules.

49. (1) A hearing by the Court shall take place at such time and place as the presiding Judge may determine.

Place and time of
hearing

(2) The Court shall have the power to adjourn any proceedings from time to time and from place to place.

PART VIII

MISCELLANEOUS

50. Where a person has been committed to prison for contempt of Court, a warrant in Form IRC 23 contained in Part E of the Schedule shall be issued by a Judge of the Court and shall be full authority to the officer in charge of a prison and to all other persons for carrying into effect the order of committal described in such warrant.

Committal for
contempt of Court

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51. A warrant to apprehend a person under subsection (1) of section *one hundred and five* of the Act shall be in Form IRC 24 contained in Part E of the Schedule. Warrant to apprehend

52. A warrant to detain a witness in custody under subsection (2) of section *one hundred and five* of the Act shall be in Form IRC 25 contained in Part E of the Schedule. Warrant of detention

53. The Forms set out in Part F of the Schedule or forms substantially to the like effect with such variations as the circumstances of each case may require, shall be used for all matters to which they may be applicable. Forms

54. The Court or any other person authorised in writing in that behalf may at any time prior to the final determination of a matter before the Court enter any building, factory, workshop or other place or premises whatsoever and inspect the same or any work or machinery or interrogate any person therein in respect of anything situated therein or any question relating to the matter. Power to enter premises

55. Nothing in these Rules shall be deemed to limit or otherwise affect the power of the Court to make such order as may be necessary for the ends of justice or to prevent the abuse of the process of the Court. Power of the Court not limited by these Rules

56. If in any matter a party, witness or other person is unable to speak or understand the English language, the Court may direct a fit and proper person to attend and interpret the proceedings. Before so interpreting the Court may ask such person to swear an oath in the following terms: Interpreter

"I swear that I will well and truly interpret and explanation make of all such matters and things as shall be required of me to the best of my skill and understanding. So help me God."

57. When a party is represented by a person other than a legal practitioner, he shall file an authority to represent the party in, or substantially in accordance with, Form IRC 27 contained in Part F of the Schedule. Representation of parties

58. All writs and mandatory process to be used, issued or awarded by the Court shall run and be in the name of the President, and shall be sealed with the seal of the Court. Forms of writ, etc.

59. The process of the Court shall run throughout Zambia and an order of the Court shall be executed and enforced in like manner as if it were a judgment of the High Court. Orders to be enforced as a decree

60. (1) All proceedings, agreements or other documents filed in the Court shall save in the circumstances referred to in sub-rule (2) be on metric foolscap paper of good quality and shall be typewritten, mimeographed or printed in double spacing and shall be clear and easily legible. Only one side of the paper shall be used and a margin of not less than 4 cm shall be left on the left-hand side of each sheet. Form of proceedings

(2) Where the nature of the document so requires, it may be reproduced by a photographic method.

(3) Any proceedings before the Court shall be paged consecutively and shall contain the following documents in the order in which they are hereinafter set out:

- (a) a complete index of all documents in the case showing the pages at which they appear;
- (b) all documents in the nature of pleadings in chronological order;
- (c) copies of all affidavits and exhibits to be relied on by the parties;
- (d) where the proceeding is an appeal from the decision of the Commissioner, a trade union or the Board of Review, a copy of the evidence and any other material placed before the Commissioner, the trade union or the Board of Review, as the case may be;
- (e) such other documents, if any, as may be necessary for the proper determination of the proceedings.

PART IX

EVIDENCE AND PROCEDURE IN THE COURT

61. The Court may call upon the parties in such order as it may think fit to state their case. Calling upon a party

62. The Court may accept, admit or call for any evidence at any stage of the proceedings and in any manner it thinks fit. Admission of evidence

63. Unless the Court otherwise directs, a witness shall give his evidence on oath or solemn affirmation administered in accordance with the provisions of section *thirty-six* of the High Court Act. Evidence on oath
Cap. 27

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- 64.** A witness at any proceedings shall be examined *viva voce* but the Court may at any time order that any particular fact may be proved by affidavit. Oral evidence and affidavit
- 65.** An affidavit filed in the Court shall be in, or substantially in accordance with, Form IRC 26 contained in Part F of the Schedule. Form of affidavit
- 66.** Where statistical statements are to be filed as exhibits, on each statement shall be mentioned the following particulars: Statistical statements
- (a) the source from which the figures have been compiled; and
 - (b) the name of the party submitting the exhibit.
- 67.** In every matter fixed for hearing, if a party intends to rely on a book, publication, law report, etc., it shall file with the Registrar and serve on all other parties not less than four days before the date of hearing a list of such books, publications, law reports, etc. Party to supply list of books, etc.

PART X

FILING OF APPLICATIONS, APPEALS, COMPLAINTS, REFERENCES, STATEMENTS OF CLAIM, ANSWERS AND OTHER DOCUMENTS

- 68.** Every application, appeal, complaint, reference, statement of claim, answer or other document shall be filed in the office of the Registrar. Filing of documents
- 69.** Wherever under these Rules, any application, appeal, complaint, reference, statement of claim, answer or other document is required to be filed with the Court, there shall also be filed eight copies of such document, but the Registrar may in any case order that a greater or lesser number of copies shall be filed. Copies
- 70.** Every application, appeal, complaint, reference, statement of claim, answer or other document to be filed with the Court shall be scrutinised by the Registrar and if it is in order shall be admitted to the file, entered in the register and given the case number. Every such document shall be sealed by the Registrar and shall thereupon be deemed to be issued. Registrar to scrutinise before filing
- 71.** If a document is not in order by reason of any formal defect, it shall be returned by the Registrar for rectification of the defect. Return of documents

PART XI

VACANCY, SITTINGS, VACATION AND SEAL

72. If at any time between the commencement of the hearing of any matter and its final determination any member of the Court hearing such matter dies or is unable through serious illness to continue to sit as a member of the Court, the Chairman may, if he is of the opinion that a new hearing would result in unwarranted delay or expense or would for any reason prejudice the parties or any of them, appoint another member of the Court to fill the vacancy.

Chairman may fill vacancy occurring during hearing

73. The sittings of the Court shall be two in every year, the first sitting commencing on the 22nd day of January and terminating on the 31st day of May and the second sitting commencing on the 24th day of July and terminating on the 30th day of November:

Sittings of the Court

Provided that the chairman may by statutory order alter the date of commencement or termination of a sitting of the Court.

74. (1) The offices of the Court shall be open on every day of the year except on Saturdays, Sundays, public holidays and such other days as the Chairman may direct.

Working days and office hours

(2) Subject to any order of the Chairman, the offices of the Court shall be open to the public on working days-

(a) during a sitting, from 0900 hours to 1200 hours and from 1400 hours to 1600 hours; and

(b) during vacation, from 0900 hours to 1200 hours.

75. (1) There shall be used in the Court such seal as the Chairman may direct.

Seal of the Court

(2) The seal of the Court shall be impressed upon every document required by the Act or the rules made thereunder or any other written law to be so sealed.

(3) The seal of the Court shall be kept in the custody of the Registrar.

PART XII

REGISTRAR OF THE COURT

76. The Registrar shall have the custody of the records of the Court and shall exercise such functions as are assigned to him under these Rules or as may be assigned to him by the Chairman or the Deputy Chairman. Custody of records

77. Application in the following matters shall be made to the Registrar in writing in, or substantially in accordance with, the Form IRC 28 contained in Part F of the Schedule or a letter addressed to him- Applications to the Registrar

- (a) for certified copies of documents;
- (b) for issue of summonses to witnesses in any matter filed in or referred to the Court;
- (c) for inspection of documents filed in the Court;
- (d) for withdrawal of matters filed in the Court before these are placed for hearing; and
- (e) for return of exhibits.

PART XIII

WITNESSES' AND ASSESSORS' ALLOWANCES

78. A witness or an assessor, other than a public officer or a person having an interest in the proceedings for which he is summoned, who has duly attended at or for the proceedings at the instance of a party or the Court, shall be entitled to allowances, unless the Court or the Registrar shall for sufficient reason disallow the allowances of any such witness or assessor. Person entitled

79. (1) The allowances of witnesses and assessors shall be as follows: Allowances

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	<i>Minimum sum payable per day</i>	<i>Maximum sum payable per day</i>
<i>Class of person</i>		
Professional persons, owners directors or managers of business and expert witness or assessors	6.00	16.00
Clerks and artisans and persons of similar status	1.00	6.00
Peasant labourers and persons of similar status	0.30	1.50

(2) The above-mentioned allowances will be paid during the time for which a witness or assessor is necessarily detained and for the time reasonably occupied in travelling.

(3) No additional allowance will be paid merely because the witness or assessor attends in respect of more than one case on the same day.

(4) If in the opinion of the Registrar to whom a claim for allowance shall be submitted-

- (a) a strict adherence to the scales mentioned in sub-rule (1) would result in hardship, he may in his discretion increase the amounts payable; or
- (b) a reduction in any of the allowances provided for by this rule is justified in any particular case, he may in his discretion reduce or disallow the amounts payable.

80. (1) In addition to any sum to which a witness or assessor may be entitled under the last preceding rule, all witnesses and assessors provided for in rule 78 shall also be entitled to be reimbursed in respect of any expenses actually and reasonably incurred in travelling to and from the Court, and for necessary accommodation and subsistence. Travelling expenses

(2) If in the opinion of the Registrar to whom a claim shall be submitted for the reimbursement of expenses, the sums expended and claimed exceed what is reasonable, he may in his discretion reduce or disallow the amounts payable.

(3) If any witness or assessor travels by his own motor vehicle or motor cycle he may claim travelling expenses at the rate of seven ngwee per kilometre and three ngwee per kilometre respectively.

PART XIV

COURT FEES

81. The fees specified in Part G of the Schedule shall be paid by the party at whose instance they are incurred, and may be afterwards recovered as cost of cause, if the Court so order. The Court or a Judge may, on account of the poverty of any party, or for other sufficient reasons, dispense, if it or he sees fit, with the payment of any fee.

Fees

82. The Court fees or any of the fees payable under these Rules shall be paid by cash, postal order or Bank Certified Cheque.

Fees payable by cash, cheques etc.

(As amended by S.I. No. 157 of 1995)

83. The document to be stamped shall be the document indicated in the third column of Part G of the Schedule. Such documents shall be stamped before presentation at the Registry and unless so stamped, such document shall not, except as aforesaid, be accepted.

Document to be stamped

84. Upon receipt of any such document, the Registrar shall forthwith cancel such revenue stamps by means of impressing with indelible ink partly upon each and every such stamp and partly upon the document to which they are affixed, the stamp of the Registry with the true date of such impression and by writing his initials across or within the impression in such manner that the stamps are clearly defaced.

Cancellation of stamps

85. A receipt shall be issued by the Court or any officer thereof in respect of fees paid.

No receipt to be issued

(As amended by S.I. No. 157 of 1995)

86. The Registrar shall ensure that each and every document requiring to be stamped hereunder is sufficiently and properly stamped before accepting the same.

Duty of the Registrar

87. (1) When any document not requiring to be stamped is inadvertently stamped or when stamps to a value in excess of those specified in Part G of the Schedule are inadvertently affixed or such document is not presented to or is not accepted for filing by the Court, the document may at the instance of the party by whom it was so stamped be cancelled and substituted by one bearing the correct value of stamps.

Refund of value in certain cases

(2) Refunds to the value of the stamps affixed to any document cancelled under the provisions of sub-rule (1) may be made by the Registrar to the party responsible for the stamping thereof:

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Provided that-

- (i) the application is made to the Registrar within thirty days of the date of cancellation of such document; and
- (ii) the application is accompanied by the cancelled document which shall be attached by the Registrar to the voucher in support of the refund and shall thenceforth be the property of the Government.

The Laws of Zambia
SCHEDULE

PART A

REPUBLIC OF ZAMBIA

IRC 1

INDUSTRIAL RELATIONS COURT

Application No., 19.....

NOTICE OF APPLICATION UNDER SECTION 17

(Rule 4)

1. This application is made by (*name and address of applicant*).....
.....
 2. Any communication for the applicant relating to this application may be sent to (*applicant's address for service, including telephone number, if any*).....
.....
 3. Name, designation and address of the officer of the trade union against whom the order is sought to be made and the name and address of the trade union (*name, designation and address of that person*)
(*name and address of the trade union*)
 4. The grounds on which the application is made are (*here set out the facts and matters relied on in support of the application*):
 5. The applicant desires the Court to make the following order (*here set out the other order desired*):
- Date: Signed:

INDUSTRIAL RELATIONS COURT

Application No., 19.....

NOTICE OF APPLICATION UNDER SECTION 44

(Rule 4)

1. This application is made by (*name and address of the applicant*)
 2. Any communication for the applicant relating to this application may be sent to (*applicant's address for service, including telephone number, if any*)
 3. Name, designation and address of the officer of the association against whom injunction is sought and the name and address of the association (*name and address of the officer*)
(*name and address of the association*).....
 4. The grounds on which the application is made are (*here set out the facts and matters relied on in support of the application*):
 5. The applicant desires the Court to make the following order (*here set out the order desired*):
- Date: Signed:

INDUSTRIAL RELATIONS COURT

Application No., 19.....

NOTICE OF APPLICATION UNDER SECTION 74 (3)

(Rule 4)

1. This application is made by (*name and address of the applicant*)
 2. Any communication for the applicant relating to this application may be sent to (*applicant's address for service, including telephone number, if any*)
 3. The application relates to the employee of (*name(s) and address(es) of employer(s) concerned*)
 4. This application relates to the following contravention or infringement (*here specify the alleged contravention or infringement*):
 5. The grounds on which this application is made are (*here summarise the facts and matters relied on in support of the application*):
 6. The applicant seeks the following relief (*here specify the relief under section 74 sought by the applicant*):
- Date: Signed:

INDUSTRIAL RELATIONS COURT

Application No., 19.....

NOTICE OF APPLICATION UNDER SECTION 88

(Rule 4)

1. This application is made by (*name and address of the applicant*)
 2. Any communication for the applicant relating to this application may be sent to (*applicant's address for service, including telephone number, if any*)
 3. The applicant and (*name(s) and address(es) of other (party) (parties) to the collective agreement to which this application relates*) are parties to (*here give particulars of the collective agreement*):
 4. The applicant desires the Court to interpret the meaning of the following provisions in the collective agreement (*here give the provisions for which interpretation is sought*):
 5. The applicant encloses herewith his memorandum in support of his interpretation (*enclose the memorandum*).
- Date: Signed:

INDUSTRIAL RELATIONS COURT

Application No., 19.....

NOTICE OF APPLICATION UNDER SECTION 99 (1)

(Rule 4)

1. This application is made by (*name and address of the applicant*):
 2. Any communication for the applicant relating to this application may be sent to (*applicant's address for service, including telephone number, if any*):
 3. The name(s) and address(s) of (*organisation(s) and (person(s)) concerned in this application are (name(s) and address(es) of proposes respondents*):
 4. The grounds on which this application is made are (*here summarise the facts and matters relied on in support of the application*):
 5. The applicant desires the Court to make a declaration to the following effect (*here set out the declaration applied for*):
- Date: Signed:

INDUSTRIAL RELATIONS COURT

Application No., 19.....

NOTICE OF APPLICATION UNDER SECTION 102

(Rule 4)

1. This application is made by (*name and address of the applicant*)
 2. Any communication for the applicant relating to this application may be sent to (*applicant's address for service, including telephone number, if any*):
 3. The applicant and
..... (*name(s) and address(es) of other party (parties) concerned in the collective agreement, Court's award or Court's decision to which the application relates*) are parties to (*here give particulars of the collective agreement, Court's award or decision, as the case may be*):
 4. The applicant desires the Court to resolve the following ambiguity (*here set out in detail the alleged ambiguity specifying suggested amendment, if any, for resolving ambiguity*):
 5. The grounds on which this application is made are (*here summarise the facts and matters relied on in support of the application*):
- Date: Signed:

INDUSTRIAL RELATIONS COURT

Application No., 19.....

RESPONDENT'S ANSWER

(Rule 6 (2))

..... } Applicant(s)
..... }

Versus

..... } Respondents(s)
..... }

May it please the Honorable Court.

The Respondent(s) above named beg(s) respectfully to submit his/their answer as under (*herein set out in numbered paragraphs the Respondent's answer to the application*):

Date: Signed:

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PART B

REPUBLIC OF ZAMBIA

IRC 8

INDUSTRIAL RELATIONS COURT

Complaint No., 19.....

NOTICE OF COMPLAINT UNDER SECTION 114 (2)

(Rule 9)

1. This complaint is presented by *(name and address of the complainant)*
 2. Any communication for the complaint relating to this complaint may be sent to *(complainant's address for service, including telephone number, if any)*
 3. The name(s) and address(es) of the *(employer(s))* against whom the complaint is made are *(name(s) and address(es) of proposed respondent(s))*
 4. The grounds on which this complaint is presented are *(here summarise the facts and matters relied on in support of the complaint, stating the date of alleged occurrence of the event giving rise to this complaint):*.....
 5. The complainant is seeking the following relief *(here specify, in relation to each proposed respondent, the relief under section 114 (2) sought by the complainant):*
- Date: Signed:

INDUSTRIAL RELATIONS COURT

Complaint No., 19.....

NOTICE OF COMPLAINT UNDER SECTION 120 (1)

(Rule 9)

1. This complaint is presented by *(name and address of complainant)*
 2. Any communication for the complainant relating to this complaint may be sent to *(complainant's address for service, including telephone number, if any)*
 3. The representative body against which this complaint is made is *(name and address of the Congress, Federation, trade union or association alleged to have conducted election in irregular manner)*:
 4. The grounds on which the complaint is presented are *(here summarise the facts and matter relied on in support of the complaint stating the date of election in question)*:
 5. The complainant is seeking the following relief *(here specify the relief which is sought)*
- Date: Signed:

INDUSTRIAL RELATIONS COURT

Complaint No., 19.....

RESPONDENT'S ANSWER

(Rule 11 (2))

..... } Complainant(s)
..... }

Versus

..... } Respondents(s)
..... }

May it please the Honourable Court.

The respondent(s) above named beg(s) respectfully to submit his/their answer as follows (*herein set out in numbered paragraphs the Respondent's answer to the application*):

Date:

Signed:

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PART C

REPUBLIC OF ZAMBIA

IRC 11

INDUSTRIAL RELATIONS COURT

Appeal No., 19.....

NOTICE OF APPEAL UNDER SECTION 10 (1)

(Rule 14)

1. The appellant is (*name and address of appellant*)
 2. Any communication relating to this appeal may be sent to the appellant at (*appellant's address for service, including telephone number, if any*):
 3. A copy of the *refusal/decision/cancellation by the Commissioner is attached hereto as Appendix A.
 4. The *refusal/decision/cancellation by the Commissioner was notified to the appellant on (*here state the date of notification*):
 5. The appellant appeals from the *refusal/decision/cancellation by the Commissioner mentioned in paragraph 3.
 6. The appellant's grounds of appeal are (*here state the grounds of appeal*):
- Date: Signed:

*Delete whichever is not applicable

INDUSTRIAL RELATIONS COURT

Appeal No., 19.....

NOTICE OF APPEAL UNDER SECTION 28 (3)

(Rule 14)

1. The appellant is (*name and address of appellant*)
 2. Any communication relating to this appeal may be sent to the appellant at (*appellant's address for service, including telephone number, if any*):
 3. A copy of the decision of the Congress is attached hereto as Appendix A.
 4. The decision of the Congress was communicated to the appellant on (*here state the date on which decision was communicated to the applicant*):
 5. The appellant appeals from the decision of the Congress mentioned in paragraph 3.....
 6. The appellant's ground of appeal are (*here state the grounds of appeal*):
 7. The names and address of other trade unions in the dispute are (*here state the names and addresses of the trade unions*):
- Date: Signed:

INDUSTRIAL RELATIONS COURT

Appeal No., 19.....

NOTICE OF APPEAL UNDER SECTION 37 (1)

(Rule 14)

1. The appellant is (*name and address of appellant*)
 2. Any communication relating to this appeal may be sent to the appellant at (*appellant's address for service, including telephone number, if any*):
 3. A copy of the *refusal/decision/cancellation by the Commissioner is attached hereto as Appendix A.
 4. The appellant appeals from the *refusal/decision/cancellation by the Commissioner mentioned in paragraph 3.
 5. The appellant's grounds of appeal are (*here state the grounds of appeal*):
 6. The *refusal/decision/cancellation by the Commissioner was notified to the appellant on (*here state the date of notification*):
- Date: Signed:

*Delete whichever is not applicable

INDUSTRIAL RELATIONS COURT

Appeal No., 19.....

NOTICE OF APPEAL UNDER SECTION 59 (4)

(Rule 14)

1. The appellant is (*name and address of appellant*)
 2. Any communication relating to this appeal may be sent to the appellant at (*appellant's address for service, including telephone number, if any*):
 3. A copy of the decision of (*name of the trade union*) not approving the nomination of the appellant as a candidate for (*specify the election for membership of a council*) and giving reasons therefor is attached hereto as Appendix A.
 4. Any communication relating to this appeal may be sent to the trade union in question at (*trade union's address for service, including telephone number, if any*)
 5. The appellant appeals from the decision of the trade union mentioned in paragraph 3.
 6. The appellant's grounds of appeal are (*here state the grounds of appeal*):
- Date: Signed:

INDUSTRIAL RELATIONS COURT

Appeal No., 19.....

NOTICE OF APPEAL UNDER SECTION 73 (4)

(Rule 14)

1. The appellant is (*name and address of the appellant*):
 2. Any communication relating to this appeal may be sent to the appellant at (*appellant's address for service, including telephone number, if any*):
 3. A copy of the decision of the Board of Review is attached hereto as Appendix A.
 4. The appellant appeals from the decision of the Board of Review mentioned in paragraph 3.
 5. The parties to the proceedings before the Board of Review, other than the appellant, were (*names and addresses of other parties to proceedings resulting in a decision appealed from*):
 6. The appellant's grounds of appeal are (*here state the grounds of appeal*):
- Date: Signed:

INDUSTRIAL RELATIONS COURT

Appeal No., 19.....

RESPONDENT'S ANSWER

(Rule 19 (2))

..... } Appellant(s)
..... }

Versus

..... } Respondents(s)
..... }

May it please the Honourable Court.

The Respondent(s) above named beg(s) respectfully to submit his/their answer as under (*here set out in numbered paragraphs the Respondent's answer to the appeal*)

Date: Signed:

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PART D

REPUBLIC OF ZAMBIA

IRC 17

INDUSTRIAL RELATIONS COURT

Reference No., 19.....

NOTICE OF REFERENCE OF A COLLECTIVE DISPUTE UNDER SECTION 93 (3)

(Rule 21)

1. I have received notice of a collective dispute between (*here state names of the parties*):

2. WHEREAS the parties to the dispute are unable to reach a settlement thereof and have requested me to refer the dispute to the Court and the Commissioner has recommended to me that such request be acceded to:

NOW THEREFORE, in exercise of the powers contained in section 93 (3), I refer the said collective dispute to the Court.

3. Details of the issues in the collective dispute are as stated in Form IRC 19 attached hereto.

Date:

.....
Minister of Labour and Social Services

INDUSTRIAL RELATIONS COURT

Reference No., 19.....

NOTICE OF A REFERENCE OF A COLLECTIVE DISPUTE UNDER SECTION 95 (1)

(Rule 21)

1. I have received notice of a collective dispute between (*here state the names of parties*):
 2. WHEREAS the parties to the dispute as well as the conciliator or the board of conciliation have failed to reach a settlement of the dispute:
NOW THEREFORE, in exercise of the powers contained in section 95 (1), I refer the said collective dispute to the Court.
 3. Details of the issues in the collective disputes are as stated in Form IRC 19 attached hereto.
- Date:
Minister of Labour and Social Services

INDUSTRIAL RELATIONS COURT

Reference No., 19.....

NOTIFICATION OF ISSUES IN A COLLECTIVE DISPUTE UNDER
SECTION 93 OR 95

(Rule 21)

1. The parties to the collective dispute are (*here state the names of the parties*):
 2. The issues in dispute between the parties are (*here state in detail each claim or demand*):.....
- Date:

Minister of Labour and Social Services

INDUSTRIAL RELATIONS COURT

Reference No., 19.....

STATEMENT OF CLAIM

(Rule 24)

..... }
..... } Claimant(s)

Versus

..... }
..... } Respondents(s)

May it please the Honourable Court.

The abovenamed beg(s) respectfully to submit
the statement of claim as follows (*herein set out in numbered paragraphs the claims made and the grounds therefore*):

.....
.....

Date:

Signature:

INDUSTRIAL RELATIONS COURT

Reference No., 19.....

ANSWER

(Rule 24)

..... } Claimant(s)
..... }

Versus

..... } Respondents(s)
..... }

May it please the Honourable Court.

The Respondent(s) abovenamed beg(s) to submit his/their answer as follows (*herein set out in numbered paragraphs the Respondent(s) answer to the statement of claim*):.....
.....
.....
.....

Date: Signature:

INDUSTRIAL RELATIONS COURT

NOTICE OF A REFERENCE OF A DISPUTE UNDER SECTION 28 (4)

(Rule 28)

1. A dispute has arisen between us as to which of us shall have the exclusive right to represent (*specify the class of employees*)

2. The dispute was referred to the Congress for its decision thereon but the Congress has failed to communicate its decision within thirty days after the dispute was referred to it.

3. NOW THEREFORE, in accordance with the provisions of section 28 (4) of the Industrial Relations Act, 1971, we hereby refer the dispute to the Court and request the Court to take cognizance thereof.

4. The addresses for service on us are as follows:

5. Details of the issues of the dispute are as stated in Appendix A attached hereto.

Date Signed (for Trade Union)

Date Signed (for Trade Union)

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PART E

REPUBLIC OF ZAMBIA

IRC 23

INDUSTRIAL RELATIONS COURT

WARRANT OF COMMITTAL

(Rule 50)

To each and all Police Officers of Zambia, Officers of this Court and the Superintendent/Officer in Charge of the Government Prison at

WHEREAS of was on the day of, 19....., held to be in contempt of this Court and committed to prison for a period of

NOW THEREFORE You are commanded in the President's name to lodge the said in the prison of together with this warrant, in which prison the aforesaid order shall be carried into execution according to law and for this the present warrant shall be a sufficient authority to all whom it may concern.

Date at the day of, 19.....

Signature.....

Chairman/Deputy Chairman,
Industrial Relations Court

INDUSTRIAL RELATIONS COURT

WARRANT TO APPREHEND DEFAULTING WITNESS

(Rule 51)

(*)Application/Appeal/Complaint/Reference No. of 19.....

..... }

Versus

..... }

WHEREAS
was commanded to attend in person before this Court at
on day of, 19, and subsequent days, to testify or to produce a book,
document, record or other thing in the above cause; he has failed to attend or has failed to remain in attendance until duly
excused by this Court and no sufficient reason for such failure seems to exist.

NOW THEREFORE You are hereby commanded in the name of the President to apprehend and to bring and have the
said before this Court at on the
day of, 19.....

Issued at the day of, 19.....

(Signature)

*Chairman,
Industrial Relations Court*

*Delete whichever is not applicable

INDUSTRIAL RELATIONS COURT

WARRANT TO DETAIN IN CUSTODY

(Rule 52)

(*)Application/Appeal/Complaint/Reference No.of 19.....

..... }

Versus

..... }

To each and all Police Officers in Zambia, the Officers of this Court, the Superintendent/Officer in Charge of the Government Prison at

WHEREAS of had been summoned under section *one hundred and four* of the Industrial Relations Act, 1971, and-

- (a) has refused to be sworn or affirmed as a witness; or
- (b) having been sworn or affirmed, has refused to answer fully and satisfactorily the question he was lawfully required to answer; or
- (c) has refused or failed to produce a book, document, record or other thing;

and has not excused such refusal or failure to the satisfaction of this Court.

NOW THEREFORE YOU, the said Police Officers and the Officers of Court, are hereby commanded to convey the said to the said prison and there deliver the said.....to the Superintendent/Officer in Charge thereof together with this warrant; and you, the Superintendent/Officer in Charge of the said prison are hereby commanded to receive the said into your custody and unless he/she sooner consents to do what is required of him/her until the day of, 19...., and on that day to convey him/her at hours before this Court to be further dealt with according to law, unless you, the said Superintendent/Officer in Charge, shall be otherwise ordered in the meantime.

Date at the day of, 19.....

(Signature)

*Chairman,
Industrial Relations Court*

*Delete whichever is not applicable

INDUSTRIAL RELATIONS COURT

AFFIDAVIT (GENERAL FORM)

(Rule 65)

(*)Application/Appeal/Complaint/Reference No. of 19.....

..... }

Versus

..... }

I,, make oath and say as follows (herein set out, in numbered paragraphs, the facts deposed to):
.....
.....
.....

Sworn by the said
..... }
on the day of }
....., 19..... }

Before me:

.....
Commissioner for Oaths

*Delete whichever is not applicable

The Laws of Zambia
PART F

REPUBLIC OF ZAMBIA

IRC 27

INDUSTRIAL RELATIONS COURT

AUTHORITY TO REPRESENT

(Rule 57)

*Application/Appeal/Complaint or Reference No. of 19.....

I/We

have appointed Mr. to appear for me/us in the above matter. The
address of the appointee Mr. is

Dated at this day of, 19.....

Signed

*Delete whichever is not applicable

INDUSTRIAL RELATIONS COURT

APPLICATION TO THE REGISTRAR (GENERAL FORM)

(Rule 77)

(Address)
.....
.....

To:
THE REGISTRAR
INDUSTRIAL RELATIONS COURT
P.O. BOX 4009
LUSAKA

Dear Sir,

Application
Subject-*Appeal No.* of 19.....
Complaint
Reference
.....

Be pleased to supply the undersigned with a certified copy of in the above matter.

Dated this day of, 19.....

Yours faithfully,

Signature

(This form may be adopted with suitable alterations in making application under rule 77)

INDUSTRIAL RELATIONS COURT

NOTICE (GENERAL FORM)

(Rule 53)

Reference No., 19.....

..... } Claimant(s)
..... }

Versus

..... } Respondents(s)
..... }

PLEASE TAKE NOTICE that you are hereby required to file
..... in the above matter on or before the
day of, 19.....

By order of the Chairman.

.....
Registrar,
Industrial Relations Court

INDUSTRIAL RELATIONS COURT

SUMMONS TO A WITNESS

(Subpoena ad Testificandum)

(Rule 53)

*Application/Appeal/Complaint/Reference No., 19.....

(General Title)

To:

You are commanded in the President's name to attend before the Industrial Relations Court at on the day of, 19....., at hours and so from day to day until the above cause is tried, to give evidence on behalf of

WITNESS The Honourable
Chairman of Industrial Relations Court

Dated the day of in the year of Our Lord One Thousand Nine Hundred and

*Delete whichever is inapplicable

INDUSTRIAL RELATIONS COURT

SUBPOENA DUCES TECUM

(Rule 53)

*Application/Appeal/Complaint/Reference No. of 19.....

To:.....

You are commanded in the President's name to attend before the Industrial Relations Court at on the day of, 19....., at hours and so from day to day until the above cause is tried, to give evidence on behalf of and to produce at the time and place aforesaid

WITNESS the Honourable
Chairman of the Industrial Relations Court

Dated the day of in the year of Our Lord One Thousand Nine Hundred and

*Delete whichever is inapplicable

INDUSTRIAL RELATIONS COURT

NOTICE OF HEARING

(Rule 53)

*Application/Appeal/Complaint/Reference No., 19.....
BETWEEN

..... }

and

..... }

TAKE NOTICE that the above cause will be heard and determined by the Industrial Relations Court at on the
..... day of, 19....., at hours.

Dated the day of, 19.....
Any interlocutory application in the above cause may be made on or before the
..... day of, 19.....

.....
Registrar

*Delete whichever is inapplicable

INDUSTRIAL RELATIONS COURT

ORDER OF COSTS

(Rule 53)

*Application/Appeal/Complaint/Reference No. of 19.....

..... }

versus

..... }

The Court doth hereby order that the abovenamed shall pay to the abovenamed the sum of K..... in respect of the costs in the above matter.

Dated this day of, 19.....

.....

Registrar
Industrial Relations Court

*Delete whichever is inapplicable

INDUSTRIAL RELATIONS COURT

ORDER (GENERAL FORM)

(Rule 53)

*Application/Appeal/Complaint/Reference No. of 19.....

..... }

versus

..... }

UPON HEARING and

UPON READING the affidavit(s) of

IT IS HEREBY ORDERED BY THE COURT THAT

Dated this day of, 19.....

Registrar
Industrial Relations Court

*Delete whichever is inapplicable

The Laws of Zambia
PART G

FEES

(Rule 81)

	<i>Fee Units</i>
On sealing any order of the Court	20
On filing an application to set aside a writ of <i>fifa</i>	100
On filing an application for amendment	100
On filing an application to set aside an order of the Court	100
On filing an application for amendment of a notice of complaint or Application	100
On filing an application to amend an Answer	100
On filing grounds of appeal	25
On filing an application for amendment of a document not specifically provided	25
On filing an appeal from an order of the Registrar	50
On application for taxing by the Registrar	50
On an application for copies of the notes of a Judge for use by the Supreme Court per page or part thereof	10
On an application for copies of the notes of a Judge for use by the Court per page or part thereof	10
On an application for copies of the notes of the Registrar for use by a Judge per page or part thereof	10
On sealing a summons to each witness	20
On filing an affidavit	20
On filing a certificate of service	20
On every search	25
On filing of a notice of intention to produce	20
On filing of bundles of exhibits	20
On certifying record of proceedings	50
On filing a notice of motion for committal	100
On filing any document not specifically provided for	20
Administering oath or affirmation	50

(As amended by S.I. No. 34 of 1996)

Endnotes

1 (Popup - Popup)

These Rules made under the repealed Act are continued in operation by section 15 of the Interpretation and General Provisions Act (Cap. 2).