

# INDUSTRIAL RELATIONS (AMENDMENT) BILL, 2012

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**DRAFT DATED 26<sup>th</sup> JUNE, 2012**

# **INDUSTRIAL RELATIONS (AMENDMENT) BILL, 2012**

## **A BILL FOR AN ACT TO AMEND THE INDUSTRIAL RELATIONS ACT**

**Enacted by the Parliament of The Bahamas**

### **1. Short title and commencement.**

- (1) This Act may be cited as the Industrial Relations (Amendment) Act, 2012.
- (2) This Act shall come into operation on such day as the Minister may, by notice published in the Gazette, appoint.

### **2. Amendment of section 2 of the principal Act.**

Subsection (1) of section 2 of the Industrial Relations Act is amended as follows—

- (a) by deleting the defined term “trade dispute” or “dispute” and its corresponding definition and substitution therefor, the following—  
“trade dispute” or “dispute” means—
  - (a) any dispute or difference or apprehended dispute or difference between one or more employers and one or more employees, or between one or more employees and one or more other employees, which is connected with the employment or non-employment or the terms or conditions of employment, of any person, and includes a general dispute and a limited dispute; and
  - (b) any dispute or difference or apprehended dispute or difference concerning the interpretation, application, administration or alleged violation of an industrial

agreement affecting any employee and the failure and refusal of an employer to treat and enter into negotiations with the trade union which is the bargaining agent for employees in a bargaining unit;”;

- (b) by inserting in the appropriate alphabetical order, the following defined terms and corresponding definitions—

““illegality” includes any matter which is in contravention of or repugnant to common law or statute;”;

“Registrar” means the Registrar of Trade Unions and Industrial Agreements pursuant to sections 5(1) and 48;”.

### **3. Amendment of section 48 of the principal Act.**

Section 48 of the principal Act is repealed and replaced by the following—

#### **“48. Procedure in relation to industrial agreements.**

Where a trade union and an employer propose to enter into an industrial agreement under section 46, they shall sign and send to the Registrar a draft of the industrial agreement with a request for its registration, and shall at the same time send a copy of the draft industrial agreement to the Minister for his information.”.

### **4. Amendment of section 49 of the principal Act.**

Section 49 of the principal Act is repealed and replaced by the following—

#### **“49. Registration of industrial agreements by the Registrar.**

- (1) Within fourteen days of receipt of any such copy of a draft industrial agreement, the Registrar shall make thereon such comments as he may think fit, if he is satisfied that the draft industrial agreement does not contain any illegality and he shall request the union and the employer to execute the industrial agreement in proper form and register such industrial agreement when so executed.
- (2) In every case in which the Registrar is not satisfied that a draft industrial agreement does not contain any illegality, the Registrar shall inform the union and the employer (hereinafter in this section together referred to as “the parties”) in writing stating the reason for the illegality and the parties or either of them may make application to the Minister for a hearing relative thereto and after such hearing, the Minister may either—
- (a) register the industrial agreement without amendment or modification in accordance with the requirements of

subsection (1) respecting execution, if after reconsideration the Minister decides that the industrial agreement does not contain any illegality;

- (b) with the consent of the parties and in accordance with the requirements aforesaid, register the industrial agreement with such amendments and modifications as he may consider necessary and proper; or
- (c) refuse to register the industrial agreement and refer it back to the parties with a view to the preparation by them of a new industrial agreement if they think fit.”.

**5. Amendment of section 50 of the principal Act.**

Section 50 of the principal Act is repealed and replaced by the following—

**“50. Validity of industrial agreements.**

An industrial agreement under section 46 shall have effect only if it is registered by the Registrar in accordance with section 49.”.

**6. Amendment of section 55 of the principal Act.**

Section 55 of the principal Act is repealed and replaced by the following—

**“55. Jurisdiction of Tribunal.**

The Tribunal shall have jurisdiction to—

- (a) hear and determine trade disputes within an essential service or a non-essential service; and
- (b) hear and determine any other matter brought before the Tribunal in accordance with this Act.”.

## OBJECTS AND REASONS

The Industrial Relations (Amendment) Bill, 2012, seeks to amend sections 2(1), 48, 49, 50 and 55 of the principal Act.

Clause 1 of the Bill makes provision for the Short Title and commencement.

Clause 2 of the Bill amends section 2 of the principal Act, by amending the definition and corresponding defined term of “trade dispute” or “dispute”, and inserting two new additional defined terms, namely, “illegality” and “Registrar” along with the corresponding definitions thereof.

Clause 3 of the Bill amends section 48 of the principal Act to enable the Registrar to be vested with the power to register industrial agreements.

Clause 4 of the Bill amends section 49 of the principal Act to enable the Registrar to inform the union and the employer (“the parties”) in writing that he is not satisfied that the draft industrial agreement does not contain any illegality, and to hear the parties or either of them on any application for a hearing relating thereto.

Clause 5 of the Bill amends section 50 of the principal Act in order to provide that an industrial agreement will only be considered valid if it is registered by the Registrar pursuant to the provisions of section 49.

Clause 6 of the Bill amends section 55 of the principal Act to provide that the Industrial Tribunal shall be vested with the jurisdiction to hear and determine trade disputes within an essential service or a non-essential service and to hear and determine any other matter brought before it, in accordance with the provisions of the principal Act.