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LABOUR RELATIONS ACT

NO. 28 OF 1956

[ASSENTED TO 7 MAY, 1956]

[DATE OF COMMENCEMENT: 1 JANUARY, 1957]

(English text signed by the Governor-General)

as amended by

Industrial Conciliation Amendment Act, No. 41 of 1959
 Industrial Conciliation Amendment Act, No. 18 of 1961
 Industrial Conciliation Amendment Act, No. 43 of 1966
 Industrial Conciliation Further Amendment Act, No. 61 of 1966
 Industrial Conciliation Amendment Act, No. 104 of 1967
 Industrial Conciliation Amendment Act, No. 21 of 1970
 Industrial Conciliation Amendment Act, No. 94 of 1979
 Industrial Conciliation Amendment Act, No. 95 of 1980
 Manpower Training Act, No. 56 of 1981
 Labour Relations Amendment Act, No. 57 of 1981
 Labour Relations Amendment Act, No. 51 of 1982
 Labour Relations Amendment Act, No. 2 of 1983
 Labour Relations Amendment Act, No. 81 of 1984
 Transfer of Powers and Duties of the State President Act, No. 97 of 1986
 [with effect from 3 October, 1986—see title CONSTITUTIONAL LAW]
 Labour Relations Amendment Act, No. 83 of 1988
 Labour Relations Amendment Act, No. 9 of 1991

ACT

To consolidate and amend the law relating to the registration and regulation of trade unions and employers' organizations, the prevention and settlement of disputes between employers and employees, and the regulation of terms and conditions of employment by agreement and arbitration; to provide for the establishment of a National Manpower Commission and to define its functions; to provide for the establishment of an industrial court and to define its functions; to provide for the establishment of a labour appeal court and to define its functions; to provide for the control of labour brokers and the registration of labour brokers' offices; and to provide for incidental matters.

[Long title substituted by s. 20 of Act No. 94 of 1979, by s. 61 of Act No. 57 of 1981, by s. 10 of Act No. 2 of 1983 and by s. 29 of Act No. 83 of 1988.]

1. Definitions.—(1) In this Act, unless the context otherwise indicates—

“agreement” means an agreement entered into or deemed to have been entered into by parties to an industrial council or conciliation board under this Act: Provided that for the purposes of an unfair labour practice, it shall include any agreement enforceable in terms of this Act and entered into between an employer and a trade union or any group of employees in the employment of such employer;

[Definition of “agreement” substituted by s. 1 (a) of Act No. 83 of 1988.]

"arbitrator" means an arbitrator appointed or deemed to have been appointed under section 45, 46 or 49;

[Definition of "arbitrator" substituted by s. 1 (a) of Act No. 57 of 1981.]

"area" includes any number of areas, whether or not contiguous;

"award" means an award made or deemed to have been made under section *forty-five, forty-six or forty-nine*;

"Black"

[Definition of "Black" deleted by s. 1 (b) of Act No. 57 of 1981.]

"Black area"

[Definition of "Black area" deleted by s. 1 (b) of Act No. 57 of 1981.]

"chairman", in relation to a trade union, employers' organization, federation, industrial council or a committee thereof, conciliation board or the National Manpower Commission or a committee thereof, includes any person who is responsible for the performance of any of the duties ordinarily performed by a chairman;

[Definition of "chairman" substituted by s. 1 (c) of Act No. 57 of 1981.]

"coloured person"

[Definition of "coloured person" deleted by s. 1 (d) of Act No. 57 of 1981.]

"commission" means the National Manpower Commission established by section 2A;

[Definition of "commission" inserted by s. 1 (a) of Act No. 94 of 1979.]

"conciliation board" means a conciliation board established or deemed to have been established under this Act;

"council" means an industrial council;

"departmental head"

[Definition of "departmental head" inserted by s. 1 of Act No. 104 of 1967, amended by s. 1 (e) of Act No. 57 of 1981 and deleted by s. 1 (b) of Act No. 83 of 1988.]

"designated agent" means a designated agent of an industrial council appointed or deemed to have been appointed under section *sixty-two*;

"determination" means a determination made under section 46, 76 or 77, as the case may be;

[Definition of "determination" substituted by s. 1 (b) of Act No. 94 of 1979.]

"Director-General" means the Director-General: Manpower and includes any person designated by him;

[Definition of "Director-General" inserted by s. 1 (c) of Act No. 83 of 1988.]

"employee" means any person who is employed by or working for any employer and receiving or entitled to receive any remuneration, and, subject to subsection (3), any other person whomsoever who in any manner assists in the carrying on or conducting of the business of an employer; and **"employed"** and **"employment"** have corresponding meanings;

[Definition of "employee" substituted by s. 1 (c) of Act No. 94 of 1979, by s. 1 (f) of Act No. 57 of 1981 and by s. 1 (a) of Act No. 2 of 1983.]

"employer" means any person whomsoever who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him or who, subject to subsection (3), permits any person whomsoever in any manner to assist him in the carrying on or conducting of his business; and **"employ"** and **"employment"** have corresponding meanings;

[Definition of "employer" substituted by s. 1 (b) of Act No. 2 of 1983.]

"employers' organization" means any number of employers in any particular undertaking, industry, trade or occupation associated together for the purpose, whether by itself or with other purposes, of regulating relations in that undertaking, industry, trade or occupation between themselves or some of them and their employees or some of their employees;

[Definition of "employers' organization" substituted by s. 1 (g) of Act No. 57 of 1981.]

"federation" means a federation referred to in section 80 (1);

[Definition of "federation" inserted by s. 1 (h) of Act No. 57 of 1981.]

"industrial council" means an industrial council registered or deemed to be registered under this Act;

"industrial court" means the industrial court referred to in section 17 (1) (a);

[Definition of "industrial court" inserted by s. 1 (d) of Act No. 94 of 1979 and substituted by s. 1 (a) of Act No. 95 of 1980.]

"inspector" means an inspector appointed or deemed to have been appointed under section *sixty*;

"labour appeal court" means a court established by section 17A (1);

[Definition of "labour appeal court" inserted by s. 1 (d) of Act No. 83 of 1988.]

"labour broker" means any person who conducts or carries on a labour broker's office;

[Definition of "labour broker" inserted by s. 1 (c) of Act No. 2 of 1983.]

"labour broker's office" means any business whereby a labour broker for reward provides a client with persons to render service to or perform work for the client or procures such persons for him, for which service or work such persons are remunerated by the labour broker;

[Definition of "labour broker's office" inserted by s. 1 (c) of Act No. 2 of 1983.]

"legal practitioner" means any person who qualifies to be admitted or who is admitted or who was admitted to practise as an advocate in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), or as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979);

[Definition of "legal practitioner" inserted by s. 1 (e) of Act No. 83 of 1988.]

"licence of exemption" means a licence issued or deemed to have been issued under section *fifty-one* and includes any notice of exemption published in the *Gazette* under that section;

"local authority" means any institution or body contemplated in section 84 (1) (f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), and includes—

- (a) a board of management or a board referred to in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987);
- (b) a regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985);
- (c) any local government body established by virtue of the provisions of section 30 (2) (a) of the Black Administration Act, 1927 (Act No. 38 of 1927); or
- (d) a local authority as defined in the Black Local Authorities Act, 1982 (Act No. 102 of 1982);

[Definition of "local authority" substituted by s. 1 (i) of Act No. 57 of 1981 and by s. 1 (f) of Act No. 83 of 1988.]

"lock-out" means any one or more of the following acts or omissions by a person who is or has been an employer—

- (a) the exclusion by him of any body or number of persons who are or have been in his employ from any premises on or in which work provided by him is or has been performed; or

- (b) the total or partial discontinuance by him of his business or of the provision of work; or
- (c) the breach or termination by him of the contracts of employment of any body or number of persons in his employ; or
- (d) the refusal or failure by him to re-employ any body or number of persons who have been in his employ,

if the purpose of that exclusion, discontinuance, breach, termination, refusal or failure is to induce or compel any persons, who are or have been in his employ or in the employ of other persons—

- (i) to agree to or comply with any demands or proposals concerning terms or conditions of employment or other matters made by him or on his behalf or by or on behalf of any other person who is or has been an employer; or
- (ii) to accept any change in the terms or conditions of employment; or
- (iii) to agree to the employment or the suspension or termination of the employment of any person;

“Minister” means the Minister of Manpower;

[Definition of “Minister” substituted by s. 1 (j) of Act No. 57 of 1981.]

“office-bearer” means a person, other than an official, who holds any office in a trade union, employers’ organization, federation or industrial council, and includes a member, other than a member *ex officio*, of a committee of such a union, organization, federation or industrial council;

[Definition of “office-bearer” substituted by s. 1 (k) of Act No. 57 of 1981.]

“officer” means a person on the fixed establishment of the public service, or an inspector;

“official”, in relation to a trade union, employers’ organization or federation, means an employee of such union, organization or federation employed as secretary, assistant secretary or organizer of such union, organization or federation or in any other prescribed capacity, whether or not such employee in a full-time capacity, and, in relation to an industrial council, means an employee of a council employed as secretary, assistant secretary, designated agent or agent of the council or in any other prescribed capacity, whether or not such employee is employed in a full-time capacity;

[Definition of “official” substituted by s. 1 (l) of Act No. 57 of 1981.]

“order” means an order made or deemed to have been made in terms of section 51A;

[Definition of “order” inserted by s. 1 (m) of Act No. 57 of 1981.]

“organization” means an employers’ organization;

“passenger transportation” means the conveyance of persons by means of any vehicle for reward according to a time-table;

“premises” means any land and any building or structure above or below the surface of any land and includes any vehicle, aircraft or vessel;

“prescribed” means prescribed by or under this Act;

“private registry office”

[Definition of “private registry office” deleted by s. 1 (n) of Act No. 57 of 1981.]

“public accountant” means a person registered as an accountant and auditor under section *twenty-three* of the Public Accountants’ and Auditors’ Act, 1951 (Act No. 51 of 1951);

“registrar” means the industrial registrar appointed or deemed to have been appointed under section *three*;

“regulation” means a regulation made or deemed to have been made and in force under this Act;

“remuneration” means any payment in money or in kind or both in money and in kind, made or owing to any person, which arises in any manner whatsoever out of employment; and **“remunerate”** has a corresponding meaning;

“reserved occupation”

[Definition of “reserved occupation” deleted by s. 1 (g) of Act No. 83 of 1988.]

“secretary”, in relation to a trade union or an employers’ organization or a federation or an industrial council or a conciliation board, includes any person who is responsible for the performance of any of the duties ordinarily performed by a secretary;

[Definition of “secretary” substituted by s. 1 (o) of Act No. 57 of 1981.]

“strike” means any one or more of the following acts or omissions by any body or number of persons who are or have been employed either by the same employer or by different employers—

- (a) the refusal or failure by them to continue to work (whether the discontinuance is complete or partial) or to resume their work or to accept re-employment or to comply with the terms of conditions of employment applicable to them, or the retardation by them of the progress of work, or the obstruction by them of work; or
- (b) the breach or termination by them of their contracts of employment,

if—

- (i) that refusal, failure, retardation, obstruction, breach or termination is in pursuance of any combination, agreement or understanding between them, whether expressed or not; and
- (ii) the purpose of that refusal, failure, retardation, obstruction, breach or termination is to induce or compel any person by whom they or any other persons are or have been employed—
 - (aa) to agree to or to comply with any demands or proposals concerning terms and conditions of employment or other matters made by or on behalf of them or any of them or any other persons who are or have been employed; or
 - (bb) to refrain from giving effect to any intention to change terms or conditions of employment, or, if such a change has been made, to restore the terms or conditions to those which existed before the change was made; or
 - (cc) to employ or to suspend or terminate the employment of any person;

“this Act” includes any regulation;

“trade union” means any number of employees in any particular undertaking, industry, trade or occupation associated together for the purpose, whether by itself or with other purposes, of regulating relations in that undertaking, industry, trade or occupation between themselves or some of them and their employers or some of their employers;

[Definition of “trade union” substituted by s. 1 (p) of Act No. 57 of 1981.]

“tribunal”.

[Definition of “tribunal” deleted by s. 1 (e) of Act No. 94 of 1979.]

“umpire” means an umpire appointed or deemed to have been appointed under section *forty-five* or *forty-six*;

“undertaking, industry, trade or occupation” includes a section or a portion of an undertaking, industry, trade or occupation;

“unfair labour practice” means any act or omission, other than a strike or lock-out, which has or may have the effect that—

- (i) any employee or class of employees is or may be unfairly affected or that his or their employment opportunities or work security is or may be prejudiced or jeopardized thereby;
- (ii) the business of any employer or class of employers is or may be unfairly affected or disrupted thereby;
- (iii) labour unrest is or may be created or promoted thereby;
- (iv) the labour relationship between employer and employee is or may be detrimentally affected thereby;

[Definition of “unfair labour practice” inserted by s. 1 (f) of Act No. 94 of 1979, substituted by s. 1 (c) of Act No. 95 of 1980, amended by s. 1 of Act No. 51 of 1982 and substituted by s. 1 (h) of Act No. 83 of 1988 and by s. 1 (a) of Act No. 9 of 1991.]

“union” means a trade union;

“wage regulating measure” means—

- (a) an agreement, notice, award, order or determination which is or was binding in terms of this Act;
- (b) a determination made or deemed to have been made under the Wage Act, 1957 (Act No. 5 of 1957);
- (c) the determination made under the Black Building Workers Act, 1951 (Act No. 27 of 1951), which was published by Government Notice R.1743 of 10 August 1979 and remains in force, in terms of section 11 (2) (b) of the Industrial Conciliation Amendment Act, 1980 (Act No. 95 of 1980), until 19 August 1982;

[Definition of “wage regulating measure” amended by s. 1 of Act No. 41 of 1959 and by s. 1 (g) of Act No. 94 of 1979 and substituted by s. 1 (q) of Act No. 57 of 1981.]

“white person”

[Definition of “white person” deleted by s. 1 (r) of Act No. 57 of 1981.]

(2) (a) For the purposes of this Act a member of a trade union or an employers' organization shall be deemed to be in good standing if he has paid any entrance fee laid down in the constitution of the union or organization, as the case may be, and is not more than three months in arrear with the payment of the membership fees, if any, payable in terms of the said constitution: Provided that a member who has been exempted from the obligation to pay any such fee, shall be deemed to be in good standing if the registrar is satisfied that he has not been so exempted for the purpose of evading the provisions of this sub-section.

(b) For the purposes of this sub-section, **“membership fee”** means that fee the periodical payment of which is a condition of membership but does not include any separate fee, subscription or contribution which entitles a member to any financial benefit, nor any special levy imposed for a particular purpose.

(3) For the purposes of any provision of this Act or of any applicable agreement, notice, award, order or determination referred to in paragraph (a) of the definition of "wage regulating measure" in subsection (1), in the case of persons contemplated in the definition of "labour broker's office" in the said subsection who have been procured for a specific client or provided to him to render service to or perform work for him (in this subsection referred to as the workers)—

- (a) the labour broker concerned shall be deemed to be the employer of such workers, any service rendered to the client or work performed for him shall be deemed to have been rendered to or performed for the labour broker, and the workers concerned shall be deemed in respect of such service or work to be the employees of the labour broker;
- (b) the labour broker and the workers concerned shall in respect of each other be deemed to be an employer and employees respectively, subject to section 77, in that undertaking, industry, trade or occupation into which the activities or operations performed by the workers ordinarily or naturally fall, irrespective of the class of undertaking, industry, trade or occupation in which the client concerned is engaged as an employer;
- (c) the premises on which the workers concerned render service to or perform work for the client shall for any purpose connected with such service or work be deemed to be the premises of the labour broker concerned and to be used or occupied by him: Provided that for the purposes of section 58 the reference therein contained to the premises of an employer shall be construed as including the premises on which the labour broker conducts or carries on the labour broker's office concerned;
- (d) anything done or omitted by or in respect of the client in relation to the workers concerned, shall, subject to paragraph (b), if such act or omission is required or permitted to be done or omitted under any such provision by or in respect of any employer, be deemed to have been done or omitted in relation to the workers by or in respect of the labour broker concerned as their employer: Provided that, subject to section 72, the foregoing provisions of this paragraph shall not apply in respect of any act or omission to the extent to which such act or omission, in the application of those provisions, entails criminal liability for a labour broker;
- (e) anything done or omitted by or in respect of the workers in relation to the client shall, subject to paragraph (b), if such act or omission is required or permitted to be done or omitted under any such provision by or in respect of employees, be deemed to have been done or omitted by or in respect of the workers as employees of the labour broker in relation to him.

[Sub-s. (3) added by s. 1 (d) of Act No. 2 of 1983.]

(4) The definition of "unfair labour practice" referred to in subsection (1), shall not be interpreted either to include or exclude a labour practice which in terms of the said definition is an unfair labour practice, merely because it was or was not an unfair labour practice, as the case may be, in terms of the definition of "unfair labour practice", which definition was substituted by section (1) (a) of the Labour Relations Amendment Act, 1991: Provided that a strike or lock-out shall not be regarded as an unfair labour practice.

[Sub-s. (4) added by s. 1 (b) of Act No. 9 of 1991.]

2. Application of Act.—(1) This Act shall, subject to the provisions of subsection (2), apply to every undertaking, industry, trade or occupation, including an undertaking, industry, trade or occupation performing work in, on or above the continental shelf referred to in section 7 of the Territorial Waters Act, 1963 (Act No. 87 of 1963), and in so far as the continental shelf concerned is deemed to be part of the Republic.

[Sub-s. (1) substituted by s. 2 (a) of Act No. 9 of 1991.]

(2) This Act shall not apply to persons in respect of their employment in farming operations or in domestic service in private households, nor to officers of Parliament in respect of their employment as such, nor, subject to the provisions of subsections (3) and (9), to persons employed by the State in respect of their employment as such, nor to any employee of any local authority designated by such authority in terms of any law as chief administrative officer of the local authority, in so far as it concerns the determination of remuneration and other service benefits provided for in the Remuneration of Town Clerks Act, 1984 (Act No. 115 of 1984), nor to the performance of work in a charitable institution for which the persons performing it receive no remuneration, nor to persons who teach, educate or train other persons at any university, technikon, college, school or other educational institution maintained wholly or partly from public funds.

[Sub-s. (2) amended by s. 2 (a) of Act No. 57 of 1981 and substituted by s. 2 of Act No. 81 of 1984 and by s. 2 of Act No. 83 of 1988.]

(3) (a) Any association composed wholly of persons employed by the State which was registered as a trade union under the Industrial Conciliation Act, 1924 (Act No. 11 of 1924), or the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), and the registration of which was not cancelled prior to the commencement of this Act, shall be deemed to be registered as a trade union under this Act and the provisions of sub-section (4) in so far as they apply to the constitution of a trade union shall *mutatis mutandis* apply to the constitution of any such association.

(b) An association composed wholly of persons employed by the State whether the association exists at the commencement of this Act or is established after that com-

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mencement, and which at that commencement is not deemed to be registered under this Act, may in accordance with the provisions of section *four* apply to the registrar for registration under this Act and the registrar may, subject to the provisions of that section, register that association as a trade union.

(c) The provisions of sections *five*, *seven* to *sixteen*, *sixty-eight*, paragraph (d) of section *sixty-nine* and paragraph (a) of section *seventy-five* shall apply to any association which in terms of paragraph (a) is deemed to be registered under this Act and any association which is registered under paragraph (b).

(d) An association composed wholly of persons employed by the State may object to the registration of any similar association in the same circumstances in which a trade union would be entitled to object in terms of section *four* to the registration of another trade union or to the variation of the scope of registration of any similar association in the same circumstances in which a trade union would be entitled to object in terms of section *four*, as applied by section *seven*, to the variation of the scope of registration of another trade union.

(4) Any trade union, employers' organization or industrial council which at the commencement of this Act is registered or deemed to be registered under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), shall be deemed to be registered under this Act; and its constitution, as altered from time to time under the provisions of that Act or of the Industrial Conciliation Act, 1924 (Act No. 11 of 1924), shall, subject to the provisions of sub-sections (5) and (6) of section *eight*, continue to have effect as its constitution approved under this Act until altered under this Act: Provided that if at any time it appears to the registrar that the said constitution does not provide for any particular matter for which it is required by this Act to provide or that any provision thereof which has not been approved by him under this Act, is inconsistent or not in compliance with this Act or is contrary to the provisions of any law or is calculated to hinder the attainment of the objects of any law, or, in the case of a trade union or employers' organization, is unreasonable in relation to the members or the public, the registrar may require the union, organization or council concerned to alter its constitution so as to provide for that particular matter or so as to remove the provision concerned from the constitution or otherwise to alter it so as to bring it into conformity with this Act or that other law, and may fix a period not being longer than one year during which the alteration shall be effected, and notwithstanding anything to the contrary contained in the constitution of that union, organization or council, it shall be competent for the alteration to be effected in such manner and by such organ of the union, organization or council as the registrar may direct.

[Sub-s. (4) amended by s. 2 (b) of Act No. 57 of 1981.]

(5) Any conciliation board established under the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), which has not been discharged before the commencement of this Act, shall be deemed to have been established under this Act.

(6) Any assessor, arbitrator, mediator or umpire appointed under any of the provisions of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), or any person designated under the first proviso to sub-section (2) of section *thirty-four* of the said Act, who is not *functus officio* at the commencement of this Act, shall be deemed to have been appointed or designated under the corresponding provisions of this Act.

(7) Any licence of exemption issued, agreement entered into, award made or notice published under any of the provisions of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), shall be deemed to have been issued, entered into, made or published under the corresponding provisions of this Act.

(8) Any federation of employers' organizations or trade unions which at the commencement of this Act is registered under section *eighty* of the Industrial Conciliation Act, 1937 (Act No. 36 of 1937), shall be deemed to have been registered under section *eighty* of this Act.

(9) Any person employed by the State may, with the consent of the Minister of the department or, in the case of a provincial administration, of the Administrator concerned, serve as the representative or the alternate to a representative, of any party to an industrial council, unless the council provides to the contrary in its constitution, or as a member or the alternate to a member of a conciliation board, or as an arbitrator, assessor, liquidator, mediator or umpire.

2A. Establishment of National Manpower Commission.—(1) There is hereby established a commission to be known as the National Manpower Commission, which shall, subject to the provisions of this section, consist of a chairman, a deputy chairman and as many other members as the Minister may deem necessary to represent the interests of the State, employers and employees.

[Sub-s. (1) amended by s. 2 (a) of Act No. 95 of 1980.]

(2)

[Sub-s. (2) substituted by s. 2 (b) of Act No. 95 of 1980 and deleted by s. 3 of Act No. 83 of 1988.]

(3) The chairman, deputy chairman and other members shall be appointed by the Minister for such periods as he may determine and on such conditions as he may with the concurrence of the Minister of Finance determine, and in appointing such other members the Minister may consult such organizations representing employers or employees, or other bodies, as he deems qualified to represent the interests concerned.

[Sub-s. (3) substituted by s. 2 (b) of Act No. 95 of 1980.]

(4) If in his opinion there are good reasons for doing so, the Minister may at any time terminate the period of office of any member of the commission.

(5) A member of the commission shall on the expiry of his term of office by effluxion of time be eligible for reappointment.

(6) The Minister may, if he deems it expedient, appoint, on such conditions and for such period as he may determine, a person as an additional member of the commission for a particular purpose.

(7) Any casual vacancy that occurs on the commission shall be filled by the appointment by the Minister of another member, and any member so appointed shall hold office for the unexpired portion of the period of office of the member in whose place he is appointed.

(8)

[Sub-s. (8) deleted by s. 2 (c) of Act No. 95 of 1980.]

(9) The commission may, subject to the provisions of this Act and to the approval of the Minister, make rules for the conduct of the proceedings of the commission, the manner in which representations may be submitted to it, the representations of parties whenever evidence or argument is heard and generally relating to all matters necessary or incidental to the exercise of its powers and the performance of its functions, and may with like approval repeal or alter any such rules.

(10) The Minister shall provide the commission with such secretarial and clerical assistance as he may deem necessary for the effective performance of the functions of the commission.

[S. 2A inserted by s. 2 of Act No. 94 of 1979.]

2B. Committees of commission.—(1) The commission may establish committees, including an executive committee, to assist it in the performance of its functions.

[Sub-s. (1) substituted by s. 3 (a) of Act No. 95 of 1980.]

(2) Any such committee shall consist wholly of such number of members of the commission as the commission may determine: Provided that any such committee, but excluding the executive committee, may with the consent of the chairman of the commission co-opt one or more other persons as a member or members of the committee for a specific period or a particular purpose.

[Sub-s. (2) substituted by s. 3 (a) of Act No. 95 of 1980.]

(3) The commission shall designate any member of the commission who is a member of any such committee, as chairman of the committee.

(4) The commission may, subject to such conditions as it may deem fit, either generally or in relation to any particular matter, assign to any such committee any power conferred or duty imposed upon it in terms of this Act: Provided that the commission may at any time vary or set aside any decision made by such a committee in the exercise of any power or the carrying out of any duty so assigned.

[Sub-s. (4) amended by s. 3 (b) of Act No. 95 of 1980.]

(5) No member of any such committee who is not a member of the commission shall have a vote, and no such member shall have access to the records of the commission except with the consent of the chairman of the commission.

[S. 2B inserted by s. 2 of Act No. 94 of 1979. Sub-s. (5) substituted by s. 3 (c) of Act No. 95 of 1980.]

2C. Remuneration of members of commission and committees.—(1) A member of the commission who is not in the full-time service of the State shall be appointed at such remuneration (including allowances, if any) as the Minister may from time to time with the concurrence of the Minister of Finance determine.

(2) A member of the commission appointed under section 2A (6) and a member (including a co-opted member) of any committee of the commission shall, if he is not in the full-time service of the State, be paid such remuneration or allowances as the Minister may from time to time with the concurrence of the Minister of Finance determine.

[S. 2C inserted by s. 2 of Act No. 94 of 1979.]

2D. Functions of commission.—(1) Subject to the provisions of this Act, the functions of the commission shall be to make such investigations as it may consider necessary into, and submit recommendations to the Minister concerning—

- (a) all labour matters, including labour policy;
- (b) any administrative matter connected therewith which is referred to it by the Minister.

(2) For the purposes of subsection (1) the commission shall—

- (a) continually survey and analyse the total manpower situation, particularly in the Republic and, if necessary, in other areas also;
- (b) keep abreast of developments and tendencies on the international labour front, particularly those that relate to the Republic;
- (c) continually evaluate the application and effectiveness of labour legislation and practice in the light of prevailing and anticipated developments;
- (d) conduct research in regard to the design, planning and adaptation of manpower programmes; and
- (e) work in close collaboration with other Departments of State and statutory bodies in matters relating to manpower utilization, research, training and other aspects of labour.

(2A) The commission may, for the purposes of the performance of any of its functions, with the approval of the Minister granted with the concurrence of the Minister of Finance, enter into any contract for the performance of any particular act or particular work or the rendering of particular services, with any person who is in the opinion of the commission fit to perform such act or work or to render such service.

[Sub-s. (2A) inserted by s. 3 of Act No. 57 of 1981.]

(3) (a) The commission shall as soon as possible after 31 December in each year furnish the Minister with a report in respect of its activities and the labour situation in the Republic during the year ending on that date.

(b) Every such report which in the opinion of the Minister may be made known without detriment to the public interest, shall as soon as practicable be laid upon the Table of the Senate and of the House of Assembly.

(4) The provisions of section 67 shall *mutatis mutandis* apply in respect of any member of the commission and any member of any committee of the commission in so far as such provisions can be so applied.

(5) (a) Subject to the provisions of this subsection, the commission shall, in the performance of its functions, have all the powers conferred upon the registrar by subsections (4) (a) and (b), (5) and (7) of section 12, and the provisions of subsections (6), (7), (9) and (15) of that section shall *mutatis mutandis* apply to the exercise of those powers by the commission.

(b) The commission may in the performance of its functions at any time enter any premises whatsoever for the purpose of making an inspection *in loco* thereon or therein and the owner or occupier of any such premises, and every person employed by him, shall at all times furnish such facilities as the commission may require for entering such premises and for making such inspection.

(c) A subpoena issued in the exercise of the said powers shall be signed by the chairman or the deputy chairman or by an officer authorized thereto by the chairman.

(d) Whenever the commission in the exercise of the said powers calls any person present at its proceedings who was or might have been subpoenaed—

(i) the oath may be administered to that person or an affirmation may be accepted from him by the chairman or the deputy chairman or by an officer authorized thereto by the chairman; and

(ii) the chairman, deputy chairman and any member who is present at the proceedings at which that person has been called, may thereafter put any question to the said person: Provided that the chairman, or, in his absence, the deputy chairman, may in his discretion disallow any question which in his opinion is not relevant to the investigation which is being made by the commission.

[Sub-s. 5 added by s. 4 of Act No. 95 of 1980.]

(6) (a) The commission may in writing, under the hand of the chairman or the deputy chairman or of an officer authorized thereto by the chairman, require any person who in its opinion may be able to give any material information which the commission desires to obtain for the purposes of or in connection with any investigation made by it under this Act, and which such person could have been compelled to give if he had appeared before the commission on a subpoena issued by virtue of subsection (5), to furnish it with such information within such period and in such form as it may specify.

(b) Any person who fails to comply with any such requirements or who wilfully furnishes the commission with any false information shall be guilty of an offence.

[S. 2D inserted by s. 2 of Act No. 94 of 1979. Sub-s. (6) added by s. 4 of Act No. 95 of 1980.]

3. Industrial registrar and assistant industrial registrar.—(1) The Minister may, subject to the laws governing the public service, appoint an officer to be styled the industrial registrar, who shall keep registers of trade unions, employers' organizations, industrial councils, and federations of employers' organizations or trade unions registered or deemed to be registered under this Act, and shall perform such other functions and duties as are assigned to or imposed on him by this Act.

[Sub-s. (1) amended by s. 4 of Act No. 57 of 1981.]

(2) The Minister may, subject to the said laws, appoint an officer to be styled the assistant industrial registrar, who shall assist the registrar in the performance of his functions

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DISCRIMINATION AGAINST WOMEN - A Global Survey by Dr Eschel M Rhodie

*Women represent half the world's population and perform nearly 66 percent of all working hours but receive only one-tenth of the income generated and own less than one percent of the property.

* Only five percent of 160 members of the International Labour Organisation have ratified the I.L.O. conventions of 1981 and 1982 protecting women with family responsibilities against unfair termination of employment

* In the United States some 77 percent of poverty is borne by single, divorced or widowed women. In New York City, zookeepers (usually men) who did not finish high school are paid more than schoolteachers (usually women) with four years of college education

* In the Soviet Union Communist ideology is constitutionally wedded to the principle of sexual equality; yet women comprise 88 percent of the ditch diggers at any typical hydro-electric project while constituting less than one percent of the Soviet Academy of Science.

* In Indonesia, a boy aged 15 is considered the legal head of the family in his father's absence even though his mother may be a lawyer or the boy's teacher in high school.

The foregoing are but a few vivid illustrations of the worldwide denial of the rights of women writes Albert P Blaustein, Professor of Law, Rutgers University, co-editor of Constitutions of the World and President Human Rights Advocates International New York in his forward to this ~~book~~ comprehensive study of the economic, educational, social and political status of women. ~~xxxxxx~~

Of all deprived groups in the world today, women seem to have suffered the most throughout history. ^{the modern world} Racial, ethnic and religious discrimination has produced numerous victims but women, members of a majority group, have suffered even more than members of these minority groups.

This book should provide a realistic means of measuring the progress of women's rights against legal and statutory provision while, at the same time helping to highlight the most serious abuses to the dignity of women.

It is an international axiom embodied in scores of constitutions, that political platforms advocating discrimination based on race, religion and gender have been shunned by the "civilized" world. But the author has shown that, in fact, discrimination against women still exists on a massive scale, even in advanced nations. While there are legal, administrative and economic

measures which society can, and should, take to overcome and eliminate this kind of discrimination, PERCEPTIONS and ATTITUDES OF BOTH MEN AND WOMEN WORLDWIDE MUST CHANGE BEFORE ANY REAL PROGRESS CAN BE MADE. (our italics)

Dr Rhoodie came personally to the head office of the Women's Bureau of South Africa to present a copy of this book to Director Margaret Lessing.

Dealing with "The Case of South Africa" among his recommendations he waives

WF { * Generally speaking South African written law with regard to women is comparable to that of most Western democracies, What is missing is an overall act to end discrimination against women based on the terms of the United Nations Convention of 1982. Such an act would be impossible under existing political dispensation in South Africa since an act banning all forms of discrimination against women would mean banning discrimination against black women as well.

* For white women in South Africa the major discrimination is in the labour market both in the private and civil sector. The same problems of attitude, sexual stereotypes, men's perception of women's role, women's perception of their own roles and an educational program tailor made to perpetuate sexual stereotypes, are the targets for which women should aim. In this respect they could put considerably more pressure on the media, who know only too well that women also buy and read newspapers, that women are extremely important to their major advertisers and that women form a larger block of voters than men. But the starting point should and could only be the home itself, followed by primary and secondary school.

112 { * Stereotypes are cast at home but are given shape and refined at school. By the time girls leave high school they are already in a disadvantaged position. If the parents ~~sp~~ could bring sufficient pressure to bear and the educational authorities were to embark on a clearly defined path to ^{break} ~~break~~ down the stereotyping of girls, it would do more for women in their quest for equal treatment than anything else in sight.

112 { Dr Rhoodie quotes Dr Johan van der Vyver, Professor of Law at the University of the Witwatersrand for saying that women's movements in South Africa - rather than attacking the legislation should gear their activities to educating the public. "While the situation in South Africa reveals some discrimination against women particularly in the labour market, this is not founded on law." The blame for existing discrimination is to be found in public bias, prejudice, and not legal sanction.