

AMENDMENT OF THE INDUSTRIAL RELATIONS ACT CHAPTER 88:01

PROBLEM	PROPOSED RECOMMENDATIONS	RATIONAL
<p>1. Exclusion of Domestic Workers from the definition of “Worker”</p>	<p>It is being recommended that</p> <ol style="list-style-type: none"> 1. Domestic workers be included as a Worker 2. “domestic work” and “domestic worker” be defined in the IRA in accordance with International Labour Organisation, C189- Domestic Workers Convention, 2011 (No.189). <ol style="list-style-type: none"> (a) <i>the term domestic work means work performed in or for a household or households;</i> (b) <i>the term domestic worker means any person engaged in domestic work within an employment relationship;</i> (c) <i>a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker</i> 	<p>To ensure that aggrieved domestic workers are empowered to bring trade disputes before the Industrial Court as provided for under Part V of the Act.</p>
<p>2. Definition of “Worker”</p>	<p>Expansion of the definition of Worker to include teachers and Central bank workers</p>	<p>The definition of “worker” should be broadened to accommodate rather than restrict certain categories of</p>

AMENDMENT OF THE INDUSTRIAL RELATIONS ACT CHAPTER 88:01

		workers of the rights therein, as labour rights are human rights.
3. Essential Services	<p>Remove “essential industry” concept and delete Section 38(4) and the First Schedule.</p> <p>Redefine “essential services” to align with ILO standards (only where life/safety is threatened).</p> <p>Update Second Schedule; remove “Public School Bus Service.”</p> <p>Increase fine flexibility and remove imprisonment penalties in Section 67.</p>	<p>The services currently identified as essential services within the IRA were identified in 1978 and may no longer be considered essential in the strictest sense of the term.</p> <p>“Essential Services” workers’ rights are curtailed and therefore do not enjoy the same rights as those of non-essential services workers, in-spice of the fact that their engagement in industrial action may not endanger the life, personal safety or health of the whole or part of the population.</p>
4. Member in Good Standing / Access to Industrial Court	<p>Remove financial barriers: repeal Sections 34(3)(a), (b)(ii), (c) and 51(6).</p> <p>Simplify proof of membership: signed form + 8 weeks’ payments.</p> <p>Introduce ballot rules for establishing/challenging RMU status.</p> <p>Require RRCB to notify Minister of issued certificates of recognition</p>	<p>Stakeholders have commented that these provisions create an unnecessary financial barrier to union membership, for the purpose of accessing the Industrial Court, and particularly impacts low income workers negatively. Unions have their own specific rules and may elect to represent workers for no fee, however the legislation, as crafted, prevents that.</p> <p>Additionally, the RRCB’s procedure has been described as being intrusive into the affairs of a Union; and causing undue delay.</p> <p>The question of Member in Good Standing often takes several years before a determination is made by the RRCB. This results in matters before the Industrial</p>

AMENDMENT OF THE INDUSTRIAL RELATIONS ACT CHAPTER 88:01

		Court taking several years before completion and potentially delays/ impedes access to justice
4. Lack of enforceability of judgments	Empowerment of the Industrial Court Registrar to send judgments directly for High Court registration and enforcement.	The Industrial Court, despite having the status of a Court of Superior Record and being empowered to hear and determine disputes, has to depend on the High Court for the enforcement of its judgments as stipulated in Section 14 of the IRA.
5. Reorganization and transformation of the Registration, Recognition and Certification Board	Reorganization and transformation of the Board - At present, the IRA does not provide for the position of Deputy Chairperson and the addition of a Deputy Chairperson would enhance the current structure of the Board. Reduction in the timeframe for the granting of recognition and certification of RMU's to six months.	Over the last twenty to thirty years the efficiency and timeliness of the RRCB has been called into question as it relates to determination matters regarding recognition and certification of recognized majority unions, appropriateness of bargaining units, "worker" within the meaning of the IRA, and "member in good standing" not only for matters of recognition but for disputes also.
6. Electronic means	Including electronic means of service for the reporting of trade disputes	In consideration of the timelines provided for in the IRA and the amount of communication required between the parties, the Conciliation Unit requires a more efficient means of communication
7. Registration of collective agreements after the expiry date and the enforceability of collective agreements	It was recommended that the IRA be amended so that an expired collective agreement remains in force until it is amended or a new one negotiated.	The continued post expiry date registration of agreements results in thousands of workers working without current and collectively enforceable agreements.

AMENDMENT OF THE INDUSTRIAL RELATIONS ACT CHAPTER 88:01

<p>8. Review of the fines and imprisonment as penalties for industrial relations offences</p>	<p>Replace all summary convictions with “industrial relations offences.”</p> <p>Increase fines (as deterrents).</p> <p>Remove imprisonment, consistent with ILO Convention 105.</p> <p>Allow Industrial Court to impose enhanced fines/damages for breach of stop orders.</p>	<p>The ILO opposes imprisonment as a penalty for taking peaceful industrial action as it is contrary to the provisions of the Abolition of Forced Labour Convention, 1957 (No. 105), ratified by Trinidad and Tobago on May 24, 1963</p>
<p>9. Essential Services and Collective Bargaining (Section 40 and 69)</p>	<p>Introduce mechanisms to ensure that collective bargaining in the essential services.</p> <p>Increase penalties for failure to bargain in good faith.</p> <p>Update fines under Section 69; remove imprisonment.</p>	<p>When a country’s legislation deprives Public Servants, for example, who exercise authority in the name of the State or workers in essential services of the right to strike, the ILO’s Committee on Freedom of Association has stated that the workers who thus lose an essential means of defending their interests should be afforded appropriate guarantees to compensate for this restriction. In this connection, the Committee has stated that a prohibition to strike in such circumstances should be <i>“accompanied by adequate, impartial and speedy conciliation and arbitration proceedings in which the parties concerned can take part at every stage and in which the awards, once made, are fully and promptly implemented”</i>.</p>
<p>10. Section 10(3)</p>	<p>It was recommended that tripartite consultations ought to be held regarding section 10(3) as to whether it ought to</p>	<p>Stakeholders have noted that the manner in which the Industrial Court arrives at its awards within its</p>

AMENDMENT OF THE INDUSTRIAL RELATIONS ACT CHAPTER 88:01

	<p>remain as is, or be amended and to ventilate the issues that surround it and its application by the Industrial Court with the aim of ensuring that high standards are maintained in the administration of justice for employers, employees, trade unions and all other relevant stakeholders</p>	<p>judgments have been the subject of judicial comment by the Court of Appeal.</p> <p>To enhance the administration of justice, and to prevent, accusations such as bias and arbitrariness, this section should be reviewed.</p>
--	---	--

DRAFT FOR DISCUSSION PURPOSES ONLY