

THE INDUSTRIAL RELATIONS BILL, 1995

(Bill No. 4 of 1995)

(To be presented by the Minister for Labour and Public Service)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to provide for the collective negotiation of terms and conditions of employment and for the establishment of an Industrial Court for the settlement of disputes arising out of employment and to provide for matters incidental thereto.

S. H. ZWANE
ATTORNEY-GENERAL

A BILL
entitled

An Act to provide for the collective negotiation of terms and conditions of employment and for the establishment of an Industrial Court.

ENACTED by the King and the Parliament of Swaziland.

PART I.

PRELIMINARY

Short title and commencement

1. This Act may be cited as the Industrial Relations Act, 1995 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Note

63 pages of Attachment A of AFL-CIO's

Petition re Swaziland

Case 004-CP-97

has only 1 side, the
odd-numbered pages.

- (c) disciplinary act, dismissal, employment, suspension from employment, re-employment or re-instatement of any person or group of persons;
- (d) recognition or non-recognition of an organization seeking to represent employees in the determination of their terms and condition of employment;
- (e) application or the interpretation of any law relating to employment; or
- (f) terms and conditions of employment of any employee or the physical conditions under which such employee may be required to work;

"employee" means a person, whether or not the person is an employee at common law, who works for pay or other remuneration under a contract of service or under any other arrangement involving control by, or sustained dependence for the provision of work upon another person but does not include a casual employee;

"employer" means a person who employs another person as an employee under this Act and includes the Government, the Swazi National Council or anyone acting on behalf of an employer;

"employers association" means an association of employers which seeks to provide collective representation for employers in the negotiation and regulation of relations between employers and employees or between employers and employees;

"federation" means a body which is wholly comprised of employers and a combination of employers associations, industry unions or industry staff associations as the case may be;

"immediate family" means, in relation to a person, such person's father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, grand-son, grand-daughter, step-son, step-daughter, brother, sister, half-brother, half-sister, wife, husband, common law wife or common law husband;

"industry" means a sector of economic activity where the employers provide a similar service, or are engaged in the production, manufacture, processing, purchase or sale of a similar product or similar products;

"industry staff association" means any combination of staff, the principal purpose of which is the regulation of relations between staff and employers within one industry;

"industry union" means a combination of employees, other than staff, the principal purpose of which is the regulation of relations between employees and employers in a particular industry;

"picketing" means the attendance, by one or more persons, directly involved in a dispute, at or near a place where such persons are normally employed or carry on business, for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or refrain from working;

"President" means the President of the Court;

"recognition" means recognition as collective employee representative as provided by section 39;

"strike" means a complete or partial stoppage of work or slow down of work carried out in concert by two or more employees or any other concerted action on their part designed to restrict their output of work against their employer, if such action is done with a view to inducing compliance with any demand or with a view to inducing the abandonment or modification of any demand;

"undertaking" means -

- (a) mines, quarries or other works for the extraction of minerals from the earth;
- (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in the generation, transformation or transmission of electricity or motive power of any kind;
- (c) undertakings engaged in building and civil engineering work, including constructional repair, maintenance, alteration and demolition work;
- (d) undertakings engaged in the transport of passengers or goods by road, rail or air including the handling of goods at warehouses or airports;
- (e) any establishment or office, including establishments engaged wholly or mainly in the sale, purchase, distribution, insurance, negotiation, loan or administration of goods or services of any kind;
- (f) any establishment or administrative service in which the persons employed are mainly engaged in clerical work;
- (g) any newspaper undertaking;
- (h) any establishment for the treatment or care of children or aged, destitute, infirm, mentally unfit or sick persons;

PART II. ESTABLISHMENT AND ADMINISTRATION OF
INDUSTRIAL COURT

Establishment and composition of Industrial Court

4. (1) An Industrial Court is hereby established with all the powers and rights set out in this Act or any other law, for the furtherance, securing and maintenance of good industrial relations and employment conditions in Swaziland.

(2) The Court shall consist of -

(a) at least two persons qualified to be judges of the High Court one of whom shall be President of the Court, the others being called judges, all of whom shall be appointed in the same manner as a judge of the High Court but in consultation with the Minister and the Minister for Justice;

(b) two or more other members and alternate members with knowledge and experience in labour related matters to be known as nominated members who shall be appointed by the President.

(3) A judge and two members shall form a quorum of the court, provided that one of the members shall be from employers and the other from employees.

(4) The nominated members or alternate members referred to in subsection (2) shall, prior to appointment, be chosen by the President after consulting the Commissioner of Labour, from a panel of six names nominated by employers organisations and from a panel of six names nominated by employees organisations.

(5) Nominated members and alternate members shall be -

(a) appointed by the President on such terms and conditions as approved by the Minister and shall hold office for a term of three years after which they may be eligible for renomination;

(b) entitled to such fees as may be prescribed by regulation.

(6) The employer of a nominated member shall permit him or her during working hours to perform any of the duties of such a member, and the Court may make such order as it deems necessary to ensure compliance with this subsection.

Court practice and procedure

6. The President, after consulting the Attorney-General and the Chief Justice shall, by notice in the Gazette, make rules to govern the Court's practice and procedure.

Representation of parties

7. Subject to any rules made under section 6, any party to any proceedings brought under this Act before the Court may represent himself or herself or be represented by a legal practitioner or any other person authorised by such party.

Evidence and technical irregularities

8. (1) The Court shall not be bound by the rules of evidence or procedure which apply in civil proceedings and may disregard any technical irregularity which does not or is not likely to result in a miscarriage of justice.

(2) Without restricting the generality of subsection (1), the President or judge of the Court may in their discretion admit as prima facie evidence a report filed under this Act, or a written report prepared by the Commissioner of Labour or any officer acting in his capacity.

Power of Court to remit matters to parties, order parties to attend, etc.

9. (1) If in the Court's opinion the points at issue in any matter before it are not clearly defined to allow the matter to be heard or determined, the Court may remit the matter to the parties, with such directions and advice as it may deem appropriate.

(2) For the purpose of considering any matter before it, the Court may require a person to -

- (a) furnish, in writing or otherwise, such particulars as the Court may require in relation to any matter before it;
- (b) attend before it;
- (c) give evidence on oath or affirmation;
- (d) produce any relevant document.

(3) A person who, without reasonable cause, fails to comply with an order given under subsection (2), shall upon conviction, be liable to a fine not exceeding E2,000 (two thousand Emalangi) or in default of payment, to a period of imprisonment not exceeding two years.

(4) Any person who -

- (a) furnishes information, provides documents or particulars; or

Penalty for contempt of order of Court

13. A person, organisation or federation held by the Court to have breached an order of the Court, other than an order referred to in section 9, shall upon conviction be liable to a fine not exceeding five thousand Emalangeni, or in default of payment to a period of imprisonment not exceeding five years:

Provided that the court shall consider each day of a continuing contravention of this section or section 9 as a separate contravention or breach.

Fine may be ordered to be paid to person suffering loss

14. If a Court imposes a fine under this Act, and if the Court is satisfied that any person, **federation or organisation** has suffered monetary loss as a result of the breach which led to the fine, the Court may order the whole or any part of the fine to be paid to that person, **federation or organisation**.

Remedial powers of Court in cases of dismissal, discipline or other unlawful disadvantage

15. (1) If the Court, in settling any dispute or grievance, finds that the services of any employee have been terminated or any employee has been disciplined or otherwise disadvantaged or prejudiced contrary to a registered collective agreement or to any law relating to employment, the Court shall make an order granting such remedy as it may deem just.

(2) Without restricting the generality of subsection (1), the Court, in settling a dispute or grievance under this section, may award any of the following remedies —

- (a) an order for reinstatement whereby the employee is to be treated in all respects as if his or her services had never been terminated including payment of wages, salary and any remuneration payable by virtue of his or her employment;
- (b) an order for re-engagement whereby the employee is to be engaged in work comparable to that on which he or she was engaged prior to the termination of his or her services, or other reasonably suitable work, from such date and on such terms of employment as may be specified in the order;
- (c) an order that the employer take within a specified period, action appearing to the Court to be practicable for the purpose of obviating or reducing the adverse effect on the employee of any disciplinary act, disadvantage or prejudice;
- (d) an award of compensation in substitution for, or in addition to, any of the remedies specified in clauses (a) to (c) to be determined in accordance with subsection (4) or subsection (8) as the case may be.

(8) Compensation awarded under this section is in addition to, and not in substitution for, any severance allowance or other payment payable to an employee under any other law, including any payment to which an employee is entitled under his or her contract of employment or an applicable collective agreement.

Housing

16. (1) Where an employee's normal place of residence is provided by his or her employer, or is otherwise associated with his or her employment, an employee and his or her family shall not be compelled to leave such residence until one calendar month from the day of the termination has elapsed.

(2) Where the Court awards compensation under section 15 to an employee covered by subsection (1) and whose services have been terminated, such award shall include compensation for loss of residence.

PART III. LABOUR ADVISORY BOARD

Establishment and composition of Labour Advisory Board

17. (1) There is hereby established a Labour Advisory Board which shall consist of the following persons -

- (a) a chairperson who shall be the substantive Commissioner of Labour;
 - (b) a deputy chairperson who shall be the substantive Deputy Commissioner of Labour;
 - (c) four members who shall represent the interests of employees and be appointed by the Minister from a panel of names submitted by the employees organisations through their federations or organisations if not affiliated to any.
 - (d) four members who shall represent the interests of employers and be appointed by the Minister from a panel of names submitted by the employers organisations through their federation or if affiliated to any.
 - (e) four other members with special knowledge of industrial relations appointed by the Minister.
- (2) There shall be a Secretary to the Board who shall be appointed from the Department of Labour.

- (i) agenda items or texts to be discussed by the International Labour Conference;
- (ii) the submission of international labour Conventions or Recommendations to the authorities empowered to enact legislation;
- (iii) measures to provide for the implementation or ratification of recommendations or international labour conventions as appropriate;
- (iv) questions arising out of reports submitted under articles 19 and 22 of the Constitution of the International Labour Organisation;
- (v) the denunciation of ratified international labour conventions.

(2) The Board shall compile and maintain a list of persons, no fewer than three in number at any one time, with sufficient experience in industrial relations or labour law to serve as arbitrators under section 61 of this Act.

Meetings of the Board

19. (1) A quorum for the Board shall be --

- (a) the Chairperson or Deputy Chairperson of the Board;
- (b) two of the members representing employees' interests;
- (c) two of the members representing employers' interests
- (d) two of the members with special knowledge of industrial relations.

(2) The Board shall have the power to co-opt other persons as members for any particular purpose approved by the Minister and such persons shall have all the rights and privileges accorded to appointed members of the Board for the period of their co-option.

(3) The Board shall meet -

- (a) at the initiative of the Chairperson or Deputy Chairperson of the Board on no fewer than four (4) occasions in any calendar year.
- (b) upon the petition of any six members and within ten working days from receipt of the petition by the secretary.

(4) Subject to this section, the Board shall regulate its own procedure.

- (f) a provision that -
- (i) the general meeting shall be the forum for deciding the policies of the organisation and for reviewing the officers' conduct of the organisation's affairs;
 - (ii) the organisation's officers and representatives are to be bound by decisions of a general meeting;
 - (iii) a general meeting may authorise a Committee of its members to act on its behalf on all or any of the matters referred to in this paragraph for a specific period;
- (g) the fees and other subscriptions payable, and the maximum period of arrears permitted before a member loses his good financial standing;
- (h) provision that subject to the terms of this Act and to the constitution of the organisation, only a fully paid up member may vote in the election of officers, nominate a candidate for any office, be nominated for, or be elected to any office, or express his views on candidates and issues;
- (i) the grounds on which an officer or member may be suspended or expelled from office or from membership; each ground being specific;
- (j) the procedure for suspension or expulsion from office or from membership, including provision that the affected officer or member be fully informed in writing of the allegations against him, that he shall have a reasonable opportunity to meet those allegations, and that he shall have a right of appeal to a special or general meeting of the organisation;
- (k) provision for the keeping of full and accurate accounts by the treasurer or other appropriate officer, for the annual audit of those accounts by a suitable and competent person appointed by the organisation who shall not be a member of that organisation, and for the availability to all members of a full, audited annual statement of account;
- (l) provision for the banking and investment of the organisation's funds;
- (m) provision for the paying out of the organisation's funds, including the authority to sign cheques;
- (n) provision for terms and conditions of service including the payment of the expenses and salaries, if any, of officers and employees of the organisation and provision that no other payments may be made to any officer or employee without the prior approval of a general meeting;

(4) The constitution of an organisation shall not impose any condition, obligation or restriction which is oppressive, unreasonable or unjust.

(5) Without restricting the generality of subsection (4), no organisation shall discriminate, in its constitution, against any person on the ground of race, colour, creed, marital status, sex, tribal, ethnic or clan extraction, political opinion or affiliation, or social status.

Annual return from organisations and federations.

25. (1) Within five calendar months after the end of each financial year, an organisation or federation shall submit a return to the Commissioner of Labour which shall include -

- (a) the organisation's or federation's current postal address;
- (b) the names and postal addresses of its current officers;
- (c) the details of any amendments made to its constitution since the preceding return;
- (d) its audited accounts for the preceding financial year prepared by registered auditors;
- (e) where it is an organisation, the federation to which it is affiliated and the total number of its members;
- (f) where it is a federation the names of its affiliates and the number of members of each affiliate and the name of an international body or bodies to which it is affiliated.

(2) An organisation or federation which is in breach of subsection (1) shall not nominate any candidate for election to a joint industrial council, or carry on any activities for or against any candidate in any such election, nor shall such organisation participate in the activities of the joint industrial council until the breach is remedied.

Powers of Commissioner of Labour concerning constitutions and returns of organisations and federations.

26. (1) If the Commissioner of Labour is of the bona fide opinion that an organisation's or federation's constitution, or any amendment thereto, or any return required under this Act does not comply, in whole or in part, with this Act, the Commissioner shall forthwith and in writing advise the organisation or federation concerned of his opinion and direct it to have the matter rectified in a specified manner.

(2) In the event of the organisation or federation concerned failing to comply with section 25 and with the Commissioner of Labour's directive in terms of subsection (1) within 30 days, the Commissioner of Labour may order suspension of the organisation or federation.

Compliance with constitution.

28. (1) Subject to sections 26 and 27 and to any other provisions of this Act, an officer, member or employee of an organisation or federation shall comply with the constitution of the organisation or federation, and a former officer, member and employee of an organisation or federation who is required to do or refrain from doing anything by such constitution shall comply with such requirement.

(2) Upon Application by an affected party or by the **Commissioner of Labour**, the Court may make any order which it deems necessary to prevent or stop a violation of any provision of the constitution of an organisation or federation.

Improper practices in election of officers.

29. (1) A person shall not attempt to affect the outcome of an election for any office in an organisation or federation by fraud, threats, bribery or other improper means.

(2) Upon application by any member of the organisation or federation affected by any unlawful conduct referred to in subsection (1) , or by the Commissioner of Labour, the Court may declare such election null and void, determine a date for the holding of a fresh election and make provision for the filling of the office concerned, pending the outcome of such fresh election, or make such other order relating to such election or fresh election as it may deem fit.

Criminal conviction a disqualification for office.

30. (1) A person shall not hold office in an organisation or federation if he has been convicted, within five years prior to the date of his election, of a crime involving dishonesty for which he or she was sentenced to imprisonment without the option of a fine, including a suspended sentence or imprisonment.

(2) Any person who is convicted of a crime involving dishonesty while holding office in an organisation or federation shall be deemed to have lost the office at the time of conviction.

Disqualification from holding office etc.

31. (1) (a) A person shall not at any one time hold office in more than one organisation or at anyone time hold office in an organisation and in a political party or be a Minister, Assistant Minister or Deputy Minister in the Government or be a member of Parliament or Senator.

(b) A person shall not at any onetime hold office in a federation and in a political party or be a Minister, Assistant Minister or Deputy Minister in the Government or be a member of Parliament or Senator.

(2) A person whose acquisition of an office places him or her in breach of this section or section 30 shall be disqualified from holding that office or from being represented by anyone, in it.

(2) A declaration made under this section shall include such directions for the disposal of the organisation's or federation's assets, if any, as the Court may deem just, having regard to the constitution of the organisation or federation.

No compulsion to join or support organisation.

35. (1) A person shall not seek, by the use of any threat or intimidation, to compel or coerce any other person to join or not to join or support any organisation.

(2) A person who contravenes this section shall, upon conviction, be liable to a fine not exceeding E5,000 (Five thousand Emalangeni) or a period of imprisonment not exceeding 5 years or to both.

Provision for federations.

36. (1) Organisations and employers may form, participate in, be affiliated to or join a federation which has as its principal objects the functions of advice, consultation and the provision of services to its members.

(2) A federation or an officer thereof shall not act, either by instruction to its members, or by taking instructions from its members in any way that might be held as being in restraint of trade, or in support of a political party, or in any other manner that might be construed as giving the federation the status or function of an industry union, industry staff association or employers association and without prejudice to the generality of the foregoing, a federation or an officer thereof shall not call any members of an industry union, industry staff association or any other person who is not a member of the federation, to any of its meetings and give such members or person or take from such members or person any instructions, advices or suggestions or comply, acquiesce or succumb to any demands, orders or instructions from such members or person which may cause or result in a violation of this Act.

(3) A federation or officer thereof which causes or incites the cessation of work or economic activity by an organisation or contravenes subsection (2), shall upon conviction, be liable to a fine not exceeding E10,000 (Ten thousand Emalangeni) or to imprisonment for a period not exceeding ten years or to both and shall further, if an organization or federation, be deregistered or if an officer, not be eligible to hold office in any federation or organisation for a period of five years.

International workers' and employers' organisations.

37. (1) An organisation or a federation comprised solely of employee or employers' organisations, may affiliate with and participate in the affairs of international workers' or employers' organisations, make financial and other contributions to such organisations, and receive financial and other assistance from them:

Provided that before making an application for membership of any such international bodies the organisation or federation shall first consult with the Minister.

(5) If more than fifty per cent of the employees in respect of which the industry union or industry staff association seeks recognition are fully paid up members of the organisation concerned, the employer shall, within 30 days of the receipt of the application and in writing -

- (a) grant recognition to the organisation; or
- (b) if the employer is in doubt, the parties shall go for a verification count; or
- (c) if the employer decides not to grant such recognition, lodge with the Court his reasons for the refusal to grant recognition and serve a copy thereof on the industry union or industry staff association, as the case may be;

(6) Where the 30 days of receipt of an application under subsection (5) has elapsed and the employer does not recognise the industry union or industry staff association, the industry union or industry staff association may lodge an application with the court to force the employer to recognise it.

(7) The Court shall, on receipt of the reasons referred to in subsection (5) and any submissions made to it by the parties concerned, make such order as it deems fit.

(8) If for a continuous period of more than three months in any calendar year the percentage of fully paid up members of an organisation which has been granted recognition under sub-section (5) falls below fifty per cent of the employees concerned, the employer or the organisation may apply to the Court for the withdrawal of such recognition, and the Court may -

- (a) make such order as it deems fit, including an order containing terms of such withdrawal; and
- (b) adjudicate on the validity and duration of any collective agreement existing between the employer and the organisation affected by such withdrawals.

(9) Where an organisation has been granted recognition as the exclusive collective employee representative, it shall be the duty of that organisation to provide full and proper representation of the interest of all employees covered by the recognition agreement whether or not they are fully paid up members of the organisation.

Dues deduction.

40. (1) An employee may deliver to an organisation of which he or she is a member or of which he or she is eligible for membership, and which has been recognised under section 39, a written authorisation for the periodic deduction from his or her wages of fees duly payable by him or her to that organisation.

(2) After consulting an interested party, the Commissioner of Labour shall upon receipt of the application, request the Minister to establish a joint industrial council for the industry, if the Commissioner of Labour is satisfied that the establishment of such a council is desirable and practicable and its constitution suitable.

(3) On being satisfied that all the required conditions under this Act have been met, the Minister shall, by notice in the Gazette, establish a joint industrial council for the industry concerned.

(4) If the Commissioner of Labour does not consider the establishment of a joint industrial council to be desirable or practicable, he or she shall within thirty days of receiving the application, so inform the applicant in writing, setting out the reasons for his decision.

(5) If the Commissioner of Labour has taken action as in subsection (4), or where the Commissioner of Labour has requested the Minister to establish a joint industrial council and the Minister has not done so within sixty days of the date the application was submitted under subsection (1), the party which submitted the application may refer the matter to the Court.

(6) Upon receiving a reference made to it under subsection (5), the Court, after hearing any interested party, and if it is satisfied that the establishment of a joint industrial council in the industry named in the reference is practicable and desirable, and that the proposed constitution of the joint industrial council is suitable (subject to any amendment the Court may make), the Court may direct the Minister to establish a joint industrial council for the industry and the Minister shall thereupon establish the council by notice in the Gazette.

Constitution of joint industrial council

42. The constitution of a joint industrial council shall provide for -

- (a) the industry and class or classes of employee to be covered by the council;
- (b) the appointment, number and method of selection of employer and employee representatives;
- (c) the appointment and method of selection of a chairman and deputy chairman of the council;
- (d) the appointment and method of selection of a secretary or joint secretaries of the council;
- (e) the procedure for the appointment of alternate members of the council;
- (f) the number of members required to form a quorum;

- (g) the status and functions of employee representatives on the council;
- (h) the appointment, number and method of selection of the employee representatives;
- (i) such other matters as may be agreed between employer and employee representatives.

(4) Where a works council is established in an undertaking operating within an industry wherein a joint industrial council has been established under Part IV or in an undertaking where an industry union has been granted recognition under section 39 -

- (a) the functions and scope of the works council shall not include any of the matters dealing with rates of wages, hours of work or terms and conditions of employment which are included in the recognition agreement between the industry union and the employer, or which are included in the scope and functions of the joint industrial council as the case may be;
- (b) the election or appointment of employee representatives on the works council shall be conducted under arrangements to be agreed in writing between the industry union and the employer concerned.

(5) If a works council has been established in an undertaking in respect of which an industry union subsequently obtains recognition in terms of section 39 or which forms part of an industry in respect of which a joint industrial council is subsequently established, the works council shall, from the date on which recognition is granted, or the date on which the joint industrial council is established, as the case may be, cease to exercise any function in respect of any of the matters dealing with rates of wages, hours of work, or terms and conditions of employment which are included in the recognition agreement between the industry union and the employer, or which are included in the recognition agreement between the industry union and the employer, or which are included in the scope and functions of the joint industrial council.

(6) Notwithstanding any of the provisions of this section, a collective agreement made between an industry union or by a joint industrial council shall not provide for the diminution of any of the terms and conditions of employment agreed upon in a works council before the granting of recognition to an industry union or before the establishment of a joint industrial council:

Provided that if such collective agreement does contain any such provision it shall be construed as if the relative provisions of the agreement made in the works council were substituted for it.

(2) After a collective agreement has been signed by the parties, it shall be submitted to the Court with a copy to the Commissioner of Labour together with a request by the parties for the registration of the agreement by the Court.

(3) A collective agreement shall not provide that it is to take effect on a date less than ten days after it is received by the Court under subsection (2) but may contain retrospective provisions.

(4) Nothing in this section shall affect or be deemed to affect the validity of a collective agreement which is valid and subsisting immediately before the coming into force of this Act and such agreement shall remain in force until it lapses by effluxion of time, or until it is replaced by a collective agreement registered under the provisions of section 48, whichever is the earlier.

Procedure by Court on receipt of agreement.

47. (1) On receipt of a collective agreement, the Court shall consider it and thereafter may -

- (a) register the agreement without amendment;
- (b) with the consent of both parties thereto, register the agreement with such amendments or modifications as it may consider necessary;
- (c) subject to such terms and conditions as it may impose, refer the agreement back to the parties for further negotiation on matters which the Court considered sufficient grounds for refusal to register the agreement.

(2) Where the Court has referred a collective agreement back under subsection (1) (c), and the parties fail to reach agreement, the Court shall then register the agreement with such modifications as it thinks just.

(3) The Court may refuse to register a collective agreement where -

- (a) it conflicts with any of the provisions of this Act or any other law;
- (b) there is in force an unexpired collective agreement relating to employees covered by the collective agreement submitted for registration;
- (c) it provides for terms and conditions of employment less favourable to employees than those provided by any law;
- (d) it requires membership in any organisation as a condition for obtaining or retaining employment;

(2) Any dispute over whether a term or condition referred to in subsection (1) is more favourable to the employee involved shall be determined by the Court.

Application to abolish wages council.

52. Where a joint industrial council has been established in an industry and the council reaches a collective agreement covering the terms and conditions of employment in the industry, either party in the joint industrial council, may apply to the Minister for the abolition of any wages council established under the Wages Act, 1964 applicable to the industry covered by the collective agreement.

Part VIII

DISPUTES PROCEDURE

Reporting of disputes.

53. (1) A dispute may only be reported to the Commissioner of Labour by -

- (a) an employer;
- (b) an organisation which has been recognised in accordance with section 39;
- (c) a member of a works council;
- (d) a member of a joint industrial council;
- (e) any other organisation active in the undertaking concerned in the dispute where no organisation has been recognised in terms of section 39;
- (f) any employee in the undertaking where no organisation is active in the undertaking concerned in the dispute.

(2) The Commissioner of Labour shall acknowledge receipt of any report made to him under subsection (1).

(3) A dispute may not be reported to the Commissioner of Labour if more than six months have elapsed since the issue giving rise to the dispute first arose, but the Commissioner of Labour may, in any case where justice requires, and with the written approval of the Minister, extend the time during which a dispute may be reported.

(4) For the purpose of the exercise of approval to extend the time during which a dispute may be reported under subsection (3), the Minister may refer to the Court any question arising on the exercise of such approval for its recommendation and advice.

(5) If the Commissioner of Labour is satisfied that either of the parties to a dispute reported under section 53 refuses to follow such suitable procedures for settling the dispute as may exist, after the dispute was referred to them under subsection (1) (b), he shall so state in writing to the parties, and thereupon section 58(2) shall apply as if the Commissioner of Labour had intervened in the dispute under that section.

Referral of question as to nature of dispute to the Court.

56. (1) If there is any question as to whether a dispute that has been reported is one that concerns the -

- (a) application to any employee of existing terms and conditions of employment or the denial of any right applicable to any such employee in respect of his employment or
- (b) dismissal, employment, re-employment or re-instatement of any employee

either party or the Commissioner of Labour may make application to the Court for the determination thereof and the Court may determine the matter in a summary manner, whether or not by way of hearing witnesses in the matter.

(2) The decision of the Court on any question before it under subsection (1) shall be final and binding on the parties to such question.

(3) Where a matter is determined by the Court under subsection (1), the dispute shall be deemed to have been first reported to the Commissioner of Labour on the date when the decision of the Court on the question is given.

Action on report by Commissioner of Labour.

57. (1) The Commissioner of Labour shall, as soon as possible after a dispute has been reported or deemed to have been reported to him, take such steps as he may consider advisable to secure, within ~~twenty-one~~ days next after the date on which the report is received by him, a settlement of the dispute by means of conciliation.

(2) The parties to a dispute that has been reported to the Commissioner of Labour may agree in writing to extend the time, specified in subsection (1), including any further extension of time under this subsection, within which the Commissioner of Labour may take steps to secure a settlement of the dispute by means of conciliation.

(3) Where in pursuance of subsection (2), the parties to a dispute agree to extend the time within which the Commissioner of Labour may take steps to secure by means of conciliation a settlement of the dispute, the Commissioner of Labour may continue to take steps so as to secure a settlement of the dispute.

(4) Notwithstanding any other provisions of this Part, where the Commissioner of Labour is satisfied that no useful purpose would be served by continuing to conciliate under this section, he may certify that the dispute is an unresolved dispute pursuant to section 61(1).

- (a) at both parties request, the Commissioner of Labour shall refer the dispute to the court for its determination thereof and the court's determination on the matter shall, subject to section 11, be final;
- (b) at both parties' request, the Commissioner of Labour shall refer the dispute to an Arbitration Board established in the following manner -
 - (i) each party shall, within two days of such referral, appoint an arbitrator to the Arbitration Board;
 - (ii) the parties shall, within four days of such establishment, appoint a third arbitrator to the Arbitration Board who shall be the chairman, but should they fail to do so, the two arbitrators shall within two days thereof appoint the third arbitrator;
 - (iii) each party shall bear all the costs relating to the appointment of its arbitrator except that the parties shall equally share the costs relating to the appointment of the third arbitrator;
 - (iv) the arbitrators shall determine the rules of procedure of the Arbitration Board;
 - (v) the determination of the Arbitration Board on the dispute shall be final and binding on the parties and shall be made within fourteen days of the establishment of the Board;
 - (vi) once the parties have agreed to solve a dispute through arbitration neither the parties nor the Commissioner of Labour may refer the dispute to the Court.

(c) either party may, subject to this Act, give notice that they intend to take action by way of strike or lockout in accordance with this Part.

(4) Before the notice referred to in sub-section 3(c) is given, the parties shall refer the dispute to mediation in which case the following procedure shall apply -

- (a) each party shall, within two days appoint a mediator;
- (b) the parties shall, within four days of the appointment of the mediators in paragraph (a), appoint a third mediator who shall be the chairman, but should they fail to do so, the two mediators shall within two days thereof appoint the third mediator;

(5) The Commissioner of Labour shall notify the result of a strike ballot to the parties and to the Court within 48 hours of the holding of the ballot, but failure by the Commissioner of Labour to organise a ballot in conformity with this section shall not deprive an otherwise lawful strike of protection under this Act:

Provided that if such failure by the Commissioner of Labour is attributable to unco-operative conduct on the part of the employees party to the dispute, any strike action taken or threatened shall not have protection under this Act and shall be treated as unlawful.

(6) Where a majority of employees covered by the recognition agreement voting in the ballot have voted in favour of strike action, or where the Commissioner of Labour has failed to conduct or notify the result of a strike ballot under subsections (2) and (5) respectively, the strike shall be deemed to be in conformity with this Act:

Provided that a new written notice is given to the other party or parties to the dispute and to the Commissioner of Labour at least 48 hours before the commencement of such action.

(7) Subject to sub-section (6), a party to an unresolved dispute who intends taking a lockout action shall give written notice to the other party or parties and to the Commissioner of Labour at least 48 hours before the commencement of such action:

Provided that no action in pursuance of a lockout notice shall be taken earlier than seven days or later than 14 days after the date on which the dispute has been certified as unresolved within the meaning of section 61.

(8) Nothing in this section shall prevent the parties at any time agreeing to refer the dispute to an arbitrator or to the court as stipulated in section 61.

(9) Where, at any time, a dispute which has been certified as unresolved within the meaning of section 61 is resolved by agreement between the parties, the procedure specified in section 60 shall be followed.

(10) For the avoidance of doubt any other notice of an intention to take action by way of lockout or strike given before the dispute was first reported to the Commissioner of Labour, or deemed under this Act to have been so reported, including any notice given during the conciliation period, shall be null and void.

Referral of unresolved dispute to Court.

63. (1) The Commissioner of Labour may refer an unresolved dispute to the Court if -

- (a) no lockout notice or strike notice is given pursuant to section 58;

- (c) where an employee takes part in such strike action the employer may treat such action as a breach of contract and may terminate his services summarily.

(2) An employer or an industry union or industry staff association guilty of an offence under this section, shall upon conviction, be liable to a fine not exceeding E5,000 (Five thousand Emalangeni) or in default of payment, to a period of imprisonment not exceeding five years or deregistration of the organisation.

Minister may apply for order in national interest.

66. (1) If any strike or lockout is threatened or taken, whether in conformity with this Act or otherwise, and the Minister considers that the national interest is threatened or affected thereby, he may make application to the Court ex parte for an injunction restraining the parties from commencing or from continuing such action, and the Court may make such order thereon as it considers fit having regard to the national interest.

(2) Where the Court upon such an application under subsection (1) makes an order, the parties bound by that order shall immediately refrain from or discontinue such action, and the matter which gave rise to the action shall be deemed to have been referred to the Court by the parties concerned for determination.

(3) An order made by the Court under subsection (1) shall be published in the Gazette and in a newspaper circulating in Swaziland and such publication shall be deemed to be service of notice thereof on all parties to the dispute, including all employees engaged in the action, whether threatened or taking place.

(4) Subject to this section, no order of the Court made under subsection (1) shall be deemed to have validated any action taken if such action was not otherwise in conformity with the provisions of this Part.

Attorney-General may apply for a declaratory order

67. (1) Notwithstanding the provisions of section 66, where the Attorney-General has reason to believe that a strike or lockout taken or threatened is not in conformity with this Act or any other law, he or she may apply to court ex-parte for a declaratory order to that effect.

(2) Upon such an order being granted, the parties involved in the strike or lockout shall immediately refrain from or discontinue such action failing which, the Government may take appropriate measures to stop the action.

Strike action or lockout prohibited during hearing.

68. (1) A person, organisation or federation party to a dispute shall not continue, or take strike action or institute a lockout while proceedings in relation to a dispute to which that action relates are pending before the Court.

- (c) in the case of an individual who is not the holder of an office in an organisation or federation to a fine not exceeding E2,000 (Two thousand Emalangeni) or to a period of imprisonment not exceeding one year or to both such fine and imprisonment.
- (6) (a) For the purposes of this section, essential services, by whomsoever such services are rendered, and whether rendered to the Government or to any other person are -
- (i) water services;
 - (ii) electricity services;
 - (iii) fire services;
 - (iv) health services
 - (v) sanitary services;
 - (vi) telephone, telegraph and broadcasting services;
 - (vii) any service in the civil capacity in respect of the Government of Swaziland.
- (b) The Minister may, after obtaining approval from both Houses of Parliament signified by resolution by notice in the Gazette, amend the list of essential services provided for in paragraph (a).

(7) An employer in an essential service shall cause to be posted up, on premises used for the purpose of that service, a printed notice containing the provisions of this section.

(8) An employer in an essential service other than the Government, who fails to comply with subsection (7) shall be guilty of an offence and on conviction be liable to a fine not exceeding E1,000 (One thousand Emalangeni) or to a period of imprisonment not exceeding one year.

Offence for person or organisation or federation which contribute financial assistance or any other assistance to promote or support strike action or lockout in an essential service.

70. (1) If, for the purpose of promoting or maintaining the conduct of a strike or lockout in an essential service contrary to this Act, a person directly or indirectly contributes financial assistance or any other assistance to an employer organisation or federation which calls or causes such action to be taken or to any employee involved in such action, the person shall be guilty of an offence and on conviction, be liable to a fine not exceeding E5,000 (Five thousand Emalangeni) or to a period of imprisonment not exceeding five years or to both.

(2) An employer, organisation or federation which receives any financial assistance or any other assistance for the purpose of supporting a strike or lockout instituted or continued in an essential service contrary to this Act shall be guilty of an offence and on conviction, be liable to a fine not exceeding E5,000 (Five thousand Emalangeni) or to a period of imprisonment not exceeding five years or to both.

Basic employer rights.

74. An employer may-

- (a) take part in the formation of any employers' association or federation;
- (b) be a member of any such association or federation and take part in its lawful activities;
- (c) hold office in any such association or federation;
- (d) exercise any and all right conferred or recognised by this Act, and assist any employer or employers' association to exercise such rights.

Prohibited employer practices.

75. (1) An employer or employers' association, and a person acting on behalf of an employer or employers' association, shall not, with respect to any employee or any person seeking employment -

- (a) discriminate against such employee or person because of his exercise or anticipated exercise of such right conferred or recognised by this Act or because of his participation in any capacity in a proceeding under this Act;
- (b) threaten such employee or person that he will suffer any disadvantage from exercising any right conferred or recognised by this Act or from participating in any capacity in a proceeding under this Act;
- (c) promise such person any benefit or advantage for not exercising any right conferred or recognised by this Act or for not participating in any capacity in a proceeding under this Act;
- (d) restrain or seek to restrain such an employee or person, by a contract of employment or otherwise, from exercising any right conferred or recognised by this Act or from participating in any capacity in a proceeding under this Act; and any contractual term which purports to exert any such restraint shall be null and void, whether agreed to before or after the coming into force of this Act;
- (e) impose any discipline or disadvantage upon an employee for refusing to do work normally done by an employee who is lawfully on strike or who is locked out, unless such work must be done to prevent an actual danger to life, health, property.

(2) In granting the access required by subsection (1), an employer may impose any restrictions as to time and place which are reasonable and necessary to avoid undue disruption of operations, or in the interests of safety and it shall not be deemed unreasonable for an employer to refuse permission for an organisation to hold meetings of its members on the premises of the employer during working hours.

(3) Upon application, if the Court is satisfied that an employer has unreasonably refused or limited any access required by this section, it may make an order directing the granting of such access, subject to such restrictions as it may deem appropriate.

Representative's credentials and requirements as to representation etc.

80. (1) A representative appointed or elected to membership of a Works Council or Joint Industrial Council shall present his credentials for approval and acceptance to the Chairman of such council.

(2) A representative appointed or elected to office in an industry union or industry staff association shall provide proof of his or her identity and credentials when required by an employer whose premises he or she wishes to visit.

(3) A representative appointed at his or her place of employment shall observe the terms of his or her contract of employment, work competently and with due diligence, have proper regard for the safety and well-being of his or her fellow employees, and observe the established rules, conditions and standards of employment.

(4) An employer shall allow -

- (a) reasonable time for internal consultation with members of the organisation, provided that permission to be excused from normal duties for this purpose has been obtained;
- (b) accredited representatives of employee organisations reasonable time off, with or without pay, in his or her discretion, to deal with business affairs of employee organisations;
- (c) time off, with or without pay, in their discretion, for official attendance at formal meetings of appropriate employee organisations or associations, and for training courses relevant thereto;

Remedies for breach.

81. (1) If it finds, upon application by any interested person or by the Commissioner of Labour, that a person has suffered loss from a breach of sections 73, 74 or 75, the Court, in addition to or in lieu of imposing any of the sanctions specified in section 13 may make any order which it deems just and appropriate to provide redress for such breach and to discourage similar breaches in the future.

- (c) it involves the publication of derogatory statements about an employer or employers which purport to be statements of fact but which are erroneous or misleading, and that the person publishing them knew or ought to have known were false;
- (d) it is directed at a dwelling house, unless that dwelling house is also a place of business; or
- (e) it is directed at an establishment or an undertaking not directly involved in the dispute.

(2) Without prejudice to subsection (1), picketing shall be unlawful if it seeks to affect the resolution of any question of representation which under this Act is to be determined by the election of the members of a joint industrial council, or if it seeks to affect the resolution of any dispute or grievance which under this Act is to be finally settled by the Court, or if it seeks to influence an individual or group of individuals either to join or not to join or to cease membership of any organisation.

(3) Any person, organisation or federation which contravenes this section shall be guilty of an offence and on conviction liable to a fine of E5000 (Five thousand Emalangi) or five years imprisonment or to both.

Expenses.

84. The Minister shall determine the remuneration, including any allowance payable to members of the Court and to any other persons appointed for the purposes of this Act, and the expenses so incurred shall be charged on the Consolidated Fund.

Code of Practice.

85. (1) The Code of Practice set out in the Schedule (hereinafter called "the Code") shall come into operation on the date this Act comes into operation.

(2) Nothing in the Code shall be legally binding on any person and it shall not be an offence not to comply with its provisions.

(3) Notwithstanding subsection (2) the Court may take the Code into account in arriving at its decision in proceedings under this Act.

(4) The Minister may after such consultations as he may consider necessary, amend the Code.

Regulations

86. The Minister may prescribe anything under this Act which requires to be prescribed and may make regulations for giving effect generally to the purposes and provisions of this Act.

SCHEDULE

CODE OF PRACTICE
(Section 85)

Introduction.

1. The purpose of this Code is to provide practical guidance for the day to day conduct of good industrial relations. It has been prepared in consultation with the Labour Advisory Board and complements the legislative provisions of the Industrial Relations Act. The Code is not legally binding and it is designed to interpret industrial relations in the widest sense. Although some of the detailed provisions of the Code may need to be adapted to suit particular circumstances, especially in small establishments, or in certain types of employment, such adaptations should be consistent with the Code's general intentions. Failure to observe the Code will not, in itself, render anyone liable to prosecution; at the same time, the Industrial Court may take the Code into account in any proceedings before it. Any changes necessary to the Code of Practice will be made by the Minister for Labour after consultation with the Labour Advisory Board.

Management Responsibilities.

2. The principal aim of management is to conduct the business of the undertaking successfully. To achieve this aim it is necessary to have a good working relationship between management and employees. The achievement of these relationships is the joint responsibility of management and employees and the organisations which represent them. At the same time, the prime responsibility for the promotion of good working relationships rests with management, who should take the initiative in their development and pay as much attention to them as they pay to such management responsibilities as finance, marketing or production.

3. When an organisation has been recognised for negotiating purposes, management should, in conjunction with the organisation, maintain effective arrangements for negotiation, consultation and communication and for the settlement of disputes and grievances, and take steps to ensure that agreements are complied with, and that agreed procedures are observed and used.

4. Where no organisation has been recognised for negotiating purposes, management should maintain effective arrangement for consultation and communication and for the settlement of grievances and ensure that these arrangements are used.

5. Management should ensure that every manager and supervisor is properly selected and trained, and that -

- (a) his responsibilities and authority are clearly defined;

- (b) take steps to ensure that members develop effective arrangements for the settlement of disputes and grievances at the level of the individual undertaking, and that they are conversant with and observe agreements and agreed procedures;
- (c) provide advice to members on employer/employee relations, including the collection and distribution of information on legislative and other changes which affect these relations.

The individual employee.

8. The individual employee has obligations to his employer, to his industry union or staff association if he belongs to one, and to his fellow employees. His legal relationship with his employer derives from his individual contract of employment. Some of its terms may be fixed by collective agreement, other by law. He should ensure that he understands the terms of his contract and complies with them. He should be familiar with the arrangements for dealing with grievances arising out of his contract and make use of them. Employees working in an essential service for example health, sanitary, or electricity services, should ensure that they know the special obligations placed upon them because of their work in these services.

Labour Department.

9. The formal responsibilities of the Commissioner of Labour and his staff are contained in the various laws dealing with labour matters. In effect, they go further than this. The Labour Department is a public service for the benefit of individual employees and employers and the organisations or associations to which they may belong. The Department can advise all parties on labour matters, provide a conciliation service and obtain information on legislative and other trends both within Swaziland and outside its borders. All parties should avail themselves of the services offered by the Department.

Employment policies.

10. The prime responsibility for employment policies rests with management; at the same time, they should be developed, as appropriate, by consultation or negotiation with employee representatives. Employment policies should have regard to the legislative requirements relating to non-discrimination in employment.

Manpower planning.

11. Manpower planning should take account of existing manpower resources, present and future manpower needs and the necessity of matching manpower resources to these needs. It is essential that manpower planning should be an integrated part of the planning process, backed by management and based on adequate and up to date personnel records. In the evolution of a manpower policy care should be taken to -

Status and security of employees.

15. Compatible with the successful operation of the undertaking, management should provide stable employment, including reasonable job security for employees absent through sickness or other causes beyond their control. Unnecessary fluctuations in the level of earnings of an individual employee should be avoided by arranging his work so that he receives broadly equitable payments for each pay period. Status of employees and the facilities available to them should be based on the requirements of the job; where this is not so, the aim should be to progressively reduce and ultimately eliminate differences not so based.

16. Responsibility for deciding the size of the work force rests with management. A policy for dealing with reductions in the work force, should they become necessary, should be worked out in advance, and where applicable, in conjunction with employee organisations; they should form part of the undertaking's employment policies. Insofar as is possible, management should seek to avoid redundancies by such means as restricting engagements; reducing overtime; retiring employees who are beyond the normal retiring age; retraining employees for transfer to other work, and, as a last resort, short time working.

17. Where redundancy is inevitable, management in consultation with employees and their representatives, should give as much warning as possible to everyone's concerned. At the same time consideration should be given to the introduction of a scheme for voluntary retirement, redundancy or transfer. A decision should be taken as to which employees are to be made redundant, ensuring that no public announcement is made before the employees involved and their representatives have been informed.

Working conditions.

18. Minimum standards relative to working conditions are contained in the labour laws. Management should, in co-operation with their employees, aim at improving these standards by better housekeeping, cleanliness in the work place, improved lighting and ventilation etc. Noise levels should be reduced as far as possible and the standards of safety and hygiene kept at a high level. Where protective equipment is provided, e.g. safety helmets, goggles and machinery guards etc., management and employee representatives should take steps to ensure that they are properly used. For their part, employees should ensure that they understand the health and safety precautions in use, that they observe them and also that they make use of protective equipment.

- (a) the arrangements provide opportunities for the free expression of views on matters affecting employment, without incurring the risk of discrimination against persons expressing such views;
- (b) senior staff take part in the consultation;
- (c) all parties have all the information they require in order that they may participate effectively in the consultation; and
- (d) the arrangements include effective means of reporting back to employees.

Recognition of employee organisations.

25. Section 40 of the Industrial Relations Act establishes the procedure for the recognition of an employee organisation as a collective bargaining representative. Preferably, this process should be voluntary, but in the event of a dispute the matter can be referred to the Industrial Court. In replying to an application for recognition, management is entitled to know how many employees in the undertaking are members of the undertaking, but not their identities. When the extent of support cannot be agreed, the Court can make a decision as to how the support can be determined. A recognition agreement should establish the categories of employees covered by the agreement, and once an organisation is recognised, management should be prepared, within agreed procedures, to receive representations from the organisation on behalf of its members about grievances which cannot be dealt with on an individual basis. A clear procedure is necessary for the resolution of conflicts of interest.

26. An essential ingredient for sound industrial relations is mutual trust and respect between an employer and any organisation representing his employees. To establish this trust and respect there should be regular contacts between the parties. Such contacts should not be left until there is a problem. Equally, employee organisations should be provided with facilities to meet members in order that they may represent them effectively.

Collective bargaining.

27. The procedure for the conduct of collective bargaining is set out in Part V of the Industrial Relations Act. Ideally, collective bargaining should cover as wide a group as possible within the same industry. Too many small units make it difficult to ensure consistent treatment for related groups of employees, although there may be a need to take into account the interests of minority groups within the industry. Whilst negotiating arrangements need periodic review, arrangements which are working well should not be disturbed without good reason.

31. A shop steward has responsibilities both to fellow members in the establishment and to the organisation outside it, in addition to his responsibilities as an employee. Most shop stewards spend only a part of their time on shop steward's duties, but their role in the effective conduct of industrial relations at the place of work is always important. Where there are shop stewards, industry unions should provide for their election and appointment, define the manner in which they can be removed from office and specify their powers and duties within the organisation.

Functions of a shop steward.

32. A shop steward's functions at the place of work cover such matters as the recruitment of members of the organisation; maintenance of membership; the collection of dues and contributions and the handling of members' grievances, etc. His role varies according to the industrial relations system in which he operates. Agreements at the level of the industry may lay down, or provide guide lines on some of his functions. Others are best determined in the individual establishment. But all the functions of a shop steward should be clearly defined and those relating to industrial relations should be agreed between the parties. A shop steward must observe all agreements to which his organisation is a party and should take all reasonable steps to ensure that those whom he represents also observe them.

Appointment and qualifications of shop stewards.

33. When recognition has been accorded to an organisation, management and the organisation should agree on the number of shop stewards needed in the establishment and the work groups for which each steward is responsible. In conjunction with management, organisations should decide on the conditions and eligibility for election and appointment. For example, minimum age, grade and length of service in the establishment. Members of organisations should be encouraged to vote in the election of shop stewards, and management should be informed promptly when shop stewards are appointed and when changes are made.

Status of shop stewards.

34. Shop stewards should be provided with written credentials setting out their powers, duties and authorities, which shall not include the right to call for industrial action. All credentials should state the period of his office and the work group he represents. In an establishment where there are a number of shop stewards, they should consider electing a senior steward to co-ordinate their activities.

Facilities for shop stewards.

35. The facilities needed by shop stewards will depend on their functions and the nature and extent of these facilities should be agreed between organisations and management.

Collective disputes procedure

39. Disputes are broadly of two kinds -

- (a) disputes of right, which relate to the application or interpretation of existing agreements or contracts of employment; and
- (b) disputes of interest, which relate to claims by employees or proposals by management about terms and conditions of employment.

40. A procedure for settling collective disputes should be in writing and should -

- (a) state the level at which an issue should first be raised;
- (b) lay down time limits for each stage of the procedure with provision for extension by agreement; and
- (c) reflect the requirements of the Industrial Relations Act in regard to strikes and lockouts.

4. The procedure should have the following stages -

- (a) employee representatives should raise the issue in dispute with management at the level directly concerned;
- (b) failing settlement, it should be referred to a higher level within the establishment; and
- (c) if still unsettled, it should be referred to further agreed stage, for example, to a stage of an industry-wide procedure, or to a higher level within the undertaking;
- (d) it should be treated in terms of the Industrial Relations Act.

Disciplinary procedures.

42. It is a basic principle that an employee should not be dismissed from his job without reason. At the same time, it is difficult to protect an employee after he has been dismissed, and the usual question relative to an employee proved to be unfairly dismissed is the amount of compensation due to him. It is rare for an employer to be willing to reinstate a dismissed employee, and clearly, therefore, dismissal should be a last resort.

Every employer should ensure that fair and effective arrangements exist for dealing with disciplinary matters, if an organisation has been recognised, the organisation should be associated with the disciplinary procedure.

- (d) great care should be taken when a shop steward is disciplined as he, clearly, is in a very vulnerable situation with regard to discrimination. A shop steward should never be dismissed until the circumstances of the case have been discussed with a full-time official of his organisation, though he may be suspended pending such discussions.
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Appendix No. 4

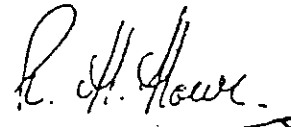
JOINT PRESS STATEMENT BY THE FEDERATION OF SWAZILAND EMPLOYERS AND THE SWAZILAND FEDERATION OF TRADE UNIONS

The Federation of Swaziland Employers and the Swaziland Federation of Trade Unions met on this the 18th Day of April, 1995, at the Mountain Inn, Mbabane to review the Draft Industrial Relations Bill of 1995.

It is the belief of both Federations that the Bill, in its present form, introduces more inflexibilities than the present Act.

The Parties Therefore Hereby Resolve to jointly reject this Bill in its totality, then advise both Government and Parliament of this decision, and propose that Parliament defers debate on the Bill until the social partners have drafted a mutually agreed document through the Labour Advisory Board before handing over to the Government for re-tabling ^{to} ~~at~~ Parliament.

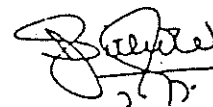
Statement Made in MBABANE on this the 18th Day of April, 1995 and signed for Employers by:



MR. R.H. HOWE

.....

AND for the Swaziland Federation of Trade Unions by:



MR. J.J. SITHOLE

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