

LAWS OF SOLOMON ISLANDS

1996 Edition]

CHAPTER 75

TRADE DISPUTES ACT

*3 of 1981*  
*8 of 1982*  
*11 of 1987*

AN ACT TO ESTABLISH A PANEL TO ENCOURAGE SETTLEMENT OF TRADE DISPUTES AND TO MAKE BINDING AWARDS WHERE NEGOTIATION FAILS; TO RESTRICT INDUSTRIAL ACTION WHILE THE PANEL CONSIDER THE DISPUTE; TO PROVIDE FOR THE ENFORCEMENT OF AWARDS AND COLLECTIVE AGREEMENTS AND FOR THE RECOVERY OF THE EXPENSES OF PROVIDING THE PANEL; TO REPEAL THE TRADE DISPUTES ACT 1976; AND FOR CONNECTED PURPOSES

*[1<sup>st</sup> July 1981]*

**Short title**

1.-(1) This Act may be cited as the Trade Disputes Act.

(2) The Schedule to this Act contains a glossary of terms, and in this Act unless the context otherwise requires any expression for which there is an entry in the first column of the Schedule -

(a) has the meaning given against it in the second column; or

(b) is to be construed in accordance with directions given against it in the second column.

**Trade Disputes Panel**

2.-(1) There shall be a Trade Disputes Panel.

(2) The Panel shall consist of a Chairman and eight other members and four of those other members shall be persons who are elected officers of a trade union.

*11 of 1997, s. 2*

(3) The Chairman shall be appointed by the Judicial and Legal Service Commission from among persons holding such legal qualifications as may seem appropriate to the Commission; and the members of the Panel other than the Chairman shall be appointed by the Minister.

(4) Before appointing those members, the Minister shall -

(a) as to the four officers referred to in subsection (2) consult such trade unions as he considers appropriate; and

*(b)* as to the four other members, consult such employers' organisations as he considers appropriate.

(5) The Chairman and other members of the Panel-

*(a)* shall hold and leave office in accordance with their terms of appointment (which shall not appoint them for a period of more than two years);

*(b)* may at any time resign in writing; and

*(c)* may be removed from office if (in the opinion of the person appointing them) they have become physically or mentally incapacitated or have failed to discharge their functions as members or have otherwise become unable or unfit to discharge their functions.

(6) There may be paid to the members of the Panel such travelling and other allowances (including compensation for loss of remunerative time) as the Minister may from time to time determine.

(7) Subject to section 8(3), the Panel shall not be subject to directions of any kind from any Minister as to the manner in which they are to exercise any of their functions; and membership of the Panel other than as Chairman is not a public office for the purposes of the Constitution.

### **Meetings and procedure of Panel**

**3.-**(1) Where any matter is referred to the Trade Disputes Panel under this Act or any other written law, the Chairman shall select -

*(a)* one of the members appointed after consultation under subsection (4) *(a)* of section 2, and

*(b)* one of the members appointed after consultation under subsection (4) *(b)* of that section,

to consider the matter together with him.

(2) In relation to any matter so referred, references in this Act or any other written law to the Panel are references to the Chairman and those two members; and, subject to rules under this section, a member of the Panel selected to consider any matter shall be present during the whole of the deliberations of the Panel on that matter.

(3) The Rules Committee appointed under section 90 of the Constitution may by rules make such provision as appears to them to be necessary or expedient with respect to the proceedings of the Panel in the exercise of their powers under this Act or any other written law; and the rules may in particular include provision -

(a) for requiring persons to attend to give evidence and produce documents and for authorising the administration of oaths to witnesses;

(b) for granting discovery and inspection of documents;

(c) for the Panel to sit, with the consent of the parties to the matter in question, in the absence of one or both of the members other than the Chairman and for the replacement of absent members of the Panel while any matter stands referred to them;

(d) for prescribing the procedure to be followed before the Panel, including provision as to the persons entitled to appear and be heard on behalf of the parties and provision enabling the Panel to review their decisions and revoke or vary their awards in such circumstances as may be determined in accordance with the rules;

(e) for the award of costs;

(f) for imposing fees for the performance by the panel or a conciliator of any of their functions;

(g) for a person who, without reasonable excuse, fails to comply with any requirement imposed by virtue of paragraphs (a) or (b) above (including any restriction on the disclosure of information) to be guilty of an offence and liable on conviction to a fine not exceeding \$200, or imprisonment for three months, or both;

(h) for the registration and proof of the Panel's awards; and

(i) for prescribing the procedure to be followed on an appeal under section 13 and for limiting the time within which the right to appeal may be exercised.

## **Conciliation**

4.-(1) A party to a trade dispute may at any time refer the dispute to the Trade Disputes Panel.

(2) If it appears to the Minister

(a) that, in connection with a trade dispute, any industrial action is being or is likely to be taken; and

(b) that the action concerned has caused or would cause an interruption in the supply of goods or the provision of services; and

(c) that the interruption is or would be of such a nature or on such a scale as to be likely to affect the national economy or national security, or create public disorder, or endanger the supply of essential goods or services, he may refer the dispute to the Panel.

(3) On a reference of a dispute under this section, the Panel shall first consider whether the dispute is likely to be settled by negotiation between the parties.

(4) If in their opinion it is likely to be so settled, they shall offer the parties to the dispute their assistance with a view to bringing about a settlement.

(5) The assistance given by the Panel may include the appointment of any person ("a conciliator"), who may be a member of the Panel, to offer assistance to the parties with a view to bringing about a settlement.

(6) In exercising their functions under this section, the Panel shall have regard to the desirability of encouraging the parties to the dispute -

(a) to use any collective agreement that exists between them; and

(b) where one of the parties is a trade union or an employers' association, to comply with any rules of the union or association.

(7) If the Panel succeed in bringing about a settlement of the dispute, they shall, if the parties consent, incorporate the terms of the settlement in an order.

(8) Where the Panel make an order under subsection (7), the order shall have effect as a legally enforceable collective agreement between the parties to whom the order applies.

(9) There may be paid to a conciliator such travelling and other allowances, including compensation for loss of remunerative time, as the Minister may determine.

### **Recognition issues**

**5.-** (1) In this Act, "recognition issue" means an issue arising from a request by a trade union for recognition by an employer, including (where recognition is already given to some extent) a request for further recognition.

(2) Where a dispute including a recognition issue is referred to the Trade Disputes Panel, the Panel may, in such manner as they think fit, consult the employees in respect of whom recognition is sought to be granted; and the consultation may take the form of a ballot of the employees.

(3) The powers conferred by this section may be exercised by the panel either to assist the parties to reach a settlement by negotiation or to assist the Panel in making an award.

### **Arbitration**

**6.-**(1) Where a trade dispute is referred to the Trade Disputes Panel and (whether or not they have offered assistance under section 4) the Panel are not of the opinion that the dispute is likely

to be settled by negotiation, they shall themselves inquire into the dispute and shall make an award.

(2) Where the Panel decide to enter on an inquiry under subsection (1), they shall forthwith give notice in writing to the Minister and the parties to the dispute of the date on which the inquiry is to begin.

(3) In inquiring into a dispute under this section, the Panel shall, as well as giving the parties to the dispute an opportunity of submitting evidence (either orally or in writing), also give such an opportunity to the Minister, and may give such an opportunity to any person who, in their opinion, has an interest in the dispute.

(4) The Panel shall, in considering what award to make in any trade dispute, take account not only of the interests of the parties to the dispute but also of the likely effect of the award on other persons and on the economy as a whole.

(5) Where the dispute involves a recognition issue, the Panel shall, in deciding whether by their award to grant recognition, consider-

(a) whether the trade union would have the support of a substantial proportion of the employees in respect of whom recognition is sought to be granted; and

(b) whether the resources and organisation of the trade union are such as would enable it to represent those employees effectively.

## **Awards**

7.-(1) Any award of the Trade Disputes Panel shall show the reasons for the award.

(2) The award may vary any collective agreement between the parties to the dispute or an existing award of the Panel to which they are parties or revoke an award under the Trade Disputes Act 1976 which is binding on them.

(3) The award shall have effect for such period (not being less than one year) as may be specified in the award; and the period may begin before the date of the award.

(4) Where any trade dispute referred to the Panel involves questions as to terms or conditions of or affecting employment which are regulated by any written law (other than this Act), the Panel shall not make any award which is inconsistent with the provisions of that law.

## **Procedure for making award**

8.-(1) Any award of the Trade Disputes Panel may be the award of the majority of the Panel.

(2) The Panel shall submit a draft of their award to the Minister within the period of twenty-one days beginning with the date on which they entered on the inquiry or such longer period as the Minister may by notice in writing to the panel specify.

(3) So far as the draft relates to the pay of any employees, the Minister may, within the period of seven days beginning with the date on which the draft is submitted to him, by directions in writing to the Panel, vary the terms of the draft if, in his opinion, it is necessary to do so in the interests of the economy as a whole.

(4) Where the Minister gives directions under subsection (3), he shall give also a statement of the considerations taken into account in giving the directions.

(5) At the end of the period referred to in subsection (3), the award shall take effect in terms of the draft or, as the case may be, the draft as varied under subsection (3).

(6) In this section, "pay" includes any benefit that may be received in right of employment.

### **Enforcement of awards**

9.-(1) Where the Trade Disputes Panel make an award, the award shall be enforceable in accordance with this section as between the parties to the award.

(2) For the purposes of this section, the following are parties to the award (whether it is an award on a dispute between an employer and his employees, or between groups of his employees) -

(a) the employer;

(b) the employees, whether or not they were employees at the time of the award;

(c) where the employees, or some of them, are members of a trade union, that trade union; and

(d) where the employer is a member of an employers' association, that association.

(3) It shall be the duty of every party to the award to take all such steps as are reasonably practicable to comply with the award and not to seek to induce any other party to the award to break any of its terms.

(4) Any party to the award may apply to the High Court for an order under this section on the ground that another person ("the respondent") is in breach of the duty referred to in subsection (3).

(5) If the High Court finds that the ground on which the application is made is well-founded, the Court may, if it considers that it would be just and equitable to do so, grant relief to the applicant in one or more of the following forms.

(6) Those forms are-

(a) an order declaring the rights of the applicant and the respondent in relation to the subject-matter of the application;

(b) an order requiring the respondent to pay compensation to the applicant in respect of the breach of duty; and

(c) an order directing the respondent to take such steps for implementing the award as may be specified in the order.

### **Restriction on industrial action where dispute is before Panel**

**10.**-(1) At any time when a trade dispute has been referred to the Trade Disputes Panel and the Panel have neither -

(a) succeeded in bringing about a settlement of the dispute by negotiation, nor

(b) made an award in the dispute,

no person shall do any of the things mentioned in subsection (2).

(2) Those things are

(a) calling, organising, procuring or financing a strike or other industrial action short of a strike in furtherance of the dispute, or threatening to do so;

(b) instituting, carrying on, authorising, organising or financing a lock-out or other industrial action short of a lock-out in furtherance of the dispute, or threatening to do so; or

(c) terminating (for whatever reason) the contract of employment of any employee whose conditions of service are in issue in the dispute.

(3) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine of \$1000, or six months imprisonment, or both.

(4) Any person may apply to the High Court for an order under this section on the ground that -

(a) another person ("the respondent") has contravened subsection (1), and

(b) the applicant has suffered loss by reason of the contravention.

(5) If the Court finds that the ground on which the application is made is well-founded, the Court may, if it considers that it would be just and equitable to do so, grant relief to the applicant in either or both of the following forms.

(6) Those forms are-

- (a) an order requiring the respondent to compensate the applicant for the loss suffered;
- (b) an order directing the respondent not to continue with the contravention and, where the contravention involves the termination of the contract of employment of any person, the order may require him to be reinstated.

### **Expenses of Panel**

11.-(1) Where any dispute is referred to the Trade Disputes Panel and either -

- (a) the dispute is settled with the assistance of the Panel, or
- (b) the Panel make an award,

the Panel shall, if they think it appropriate, order all or any of the parties to the dispute to contribute towards the expenses of the Panel in respect of the dispute.

(2) For the purposes of this section, the expenses of the Panel in respect of a dispute are so much of the Government's expenditure incurred in maintaining the Panel or under section 4(9) as is attributable to the settlement of the dispute or the making of an award in the dispute; and a certificate of the Minister as to the amount of the expenses of the Panel in respect of a dispute shall be conclusive.

(3) The amount of any contribution to be made under this section shall be such as the Panel thinks fit, taking account of the financial circumstances of the party concerned and any other relevant circumstances.

(4) In deciding whether or not to make a contribution order in respect of any party under this section, and in determining the amount of the contribution, the Panel shall have regard to that party's conduct in the dispute and, in particular-

- (a) whether or not the party has tried to use any existing collective agreement; and
- (b) if the party is a trade union or employers' association, whether or not the rules of the union or association have been complied with.

### **Collective agreements**

12. Every provision of a collective agreement which -

- (a) is made in writing after the commencement of this section, or
- (b) was registered under section 29 of the Trade Disputes Act 1976,

shall be conclusively presumed to be intended by the parties to be legally enforceable, unless it is stated in the agreement that the agreement, or that provision, is intended not to be legally enforceable.

### **Appeals**

13. An appeal shall lie to the High Court on any question of law arising from any decision of, or arising in any inquiry before, the Trade Disputes Panel under this Act.

### **Government employment**

14. This Act shall have effect in relation to the Government and to persons in the service of the Government or otherwise in the service of the Crown as it has effect in relation to employers and employees.

### **Regulations, rules and parliamentary procedure**

15.-(1) The Minister may by regulations make administrative and procedural provisions for the purpose of carrying this Act into effect.

(2) Where regulations are to be made under this section, or rules are to be made under section 3(3), the following provisions (and not section 62 of the Interpretation and General Provisions Act) shall have effect -

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(a) a copy of the regulations or rules shall be laid before Parliament; and

(b) the copy shall be laid before the regulations or rules come into effect; and

(c) if, within the period of twenty days beginning with the day on which the copy is laid, Parliament resolves that the regulations or rules be annulled, the regulations or rules shall cease to have effect as from the date of the resolution, but without prejudice to the validity of anything previously done under them or to the making of new regulations or rules.

(3) In reckoning any period of twenty days for the purposes of subsection (2) (c), no account shall be taken of any time during which Parliament is prorogued or dissolved or is adjourned for more than four days.

## **SCHEDULE**

Section 1

## **GLOSSARY**

Collective Agreement..... An agreement made by or on behalf of a trade union and an

employer or an employers association or by or on behalf of two or more trade unions and relating to or connected with one or more of the matters specified in the definition of "trade dispute".

Collective bargaining .....	Negotiations relating to or connected with one or more of the matters specified in the definition of "trade dispute".
Contract of employment.....	A contract of service or apprenticeship, whether express or implied, and (if it is express) whether it is oral or in writing.
Employee .....	An individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment.
Employer .....	In relation to an employee, means the person by whom the employee is (or, in a case where the employment has ceased, was) employed.
Lock-out .....	Action which, in contemplation or furtherance of a trade dispute, is taken by an employer, whether a party to the dispute or not, and which consists of the exclusion of employees from one or more factories, offices or other places of employment or of the suspension of work in one or more such places or of the collective, simultaneous or otherwise connected termination or suspension of employment of a group of employees.
Recognition .....	In relation to a trade union, means the recognition of the union to any extent by an employer for the purpose of collective bargaining.
Recognition issue .....	See section 5.
Strike .....	A concerted stoppage of work by a group of employees in contemplation or furtherance of a trade dispute, whether they are parties to the dispute or not, whether (in the case of all or any of those employees) the stoppage is or is not in breach of their terms and conditions of employment, and whether it is carried out during, or on the termination of, their employment.
Trade dispute .....	A dispute between employees and employers, or between groups of employees, which is connected with one or more

of the following matters-

- (a) terms and conditions of employment or the physical conditions in which employees are required to work;
- (b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more employees;
- (c) allocation of work as between employees or groups of employees;
- (d) matters of discipline
- (e) membership or non-membership of a trade union; and
- (f) machinery for negotiation or consultation, and other procedures relating to any of the matters mentioned above, including the recognition of any trade union by an employer.

Trade union ..... A trade union registered under the Trade Unions Act.  
*Cap. 76*

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**CHAPTER 75**

**TRADE DISPUTES**

*Subsidiary Legislation*

**THE TRADE DISPUTES PANEL RULES**

*(Section 3 (3))*

*LN 37/1981*

*[1st July 1981]*

**Citation and interpretation**

1.-(1) These Rules may be cited as the Trade Disputes Panel Rules.

(2) In these Rules "Panel" means the Trade Disputes Panel.

### **Panel to determine procedure**

2. Subject to these Rules and to the requirements of natural justice, the Panel may determine their own procedure.

### **Referring a dispute to the Panel**

3.-(1) A person who wishes to refer a trade dispute to the Panel shall do so by giving to the Secretary to the Panel a written notice containing the following particulars -

(a) the name and address of the person making the reference;

(b) so far as reasonably practicable, the name and address of every other person alleged to be a party to the dispute; and

(c) the questions at issue between the parties.

(2) On receipt of a notice under paragraph (1), the Secretary shall give notice of the reference to each of the persons named in the notice under paragraph (1).

(3) A notice under paragraph (2) shall be given in such manner (including a radio message) as in the opinion of the Secretary is likely to bring to the attention of the person concerned the fact that the dispute has been referred to the Panel.

(4) For the purposes of the Act, a dispute is referred to the Panel when the last notice in respect of that dispute is given under paragraph (2) (whether or not that and the other notices have been received); and, in the case of a notice sent by post, it shall be treated as given at the time at which it would be delivered in the ordinary course of post.

### **Absence of member**

4.-(1) In the absence of any one member of the Panel (other than the Chairman), the Panel may, with the consent of the parties, continue their deliberations and shall be treated for all purposes as if they were constituted in accordance with the Act.

(2) If in such a case-

(a) the parties do not consent, or

(b) the Chairman is of the opinion that there was no good reason for the absence of the member,

the Chairman may select an alternative member of the Panel to replace the absent member.

(3) But if a member of the Panel is replaced by virtue of paragraph (2) at a time when the Panel have begun to inquire into a dispute under section 6 of the Act, the Chairman shall give such directions (which may include directions for recalling witnesses) as he considers necessary to ensure that no party to the dispute is unfairly prejudiced by the change in membership.

(4) In paragraph (2), "alternative member" means-

(a) if the absent member was appointed after consultation under paragraph (a) of section 2(4) of the Act, another member appointed after consultation under that paragraph; and

(b) if the absent member was appointed after consultation under paragraph (b) of section 2(4) of the Act, another member appointed after consultation under that paragraph.

(5) Where any decision of the Panel is taken at a time when the Panel is composed of two members only, the Chairman shall have a second or casting vote.

### **Notice of inquiry under section 6**

5.-(1) A written notice under section 6(2) of the Act (notice of date on which formal inquiry is to begin) shall, if it is given by post in accordance with section 52 of the Interpretation and General Provisions Act, be treated as given at the time at which it would be delivered in the ordinary course of post.

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(2) A notice under section 6(2) of the Act shall not specify as the date on which the inquiry is to begin a date that falls less than seven clear days after the date on which the notice is given.

### **Right to appear**

6.-(1) A person who is entitled to or is given an opportunity to submit evidence under section 6(3) of the Act may appear before the Panel and may be heard in person or be represented.

(2) Such a person may be represented by anyone who, in the opinion of the Panel, is a suitable person to represent him.

### **Power to require attendance of witnesses, etc**

7.-(1) This rule applies where the Panel have begun to inquire into a dispute under section 6 of the Act.

(2) The Chairman of the Panel may by notice in writing -

(a) require the attendance of any person (including a party to the dispute) as a witness to give evidence as to any question in issue in the inquiry;

(b) require any party to the dispute to state what documents he has in his possession relating to such a question and to disclose all or any of those documents to the Panel and (if the Chairman so directs) to some or all of the other parties to the dispute;

(c) require the production of any document relating to such a question;

and may appoint a time at or within which or the place at which any act so required is to be done.

(3) The Chairman may direct that any person appearing as a witness be examined on oath or (if he objects to being sworn) be permitted to make his solemn affirmation, and may administer the oath or take the affirmation accordingly.

(4) Nothing in this rule requires any person to disclose anything which he could not be required to disclose in civil proceedings before the High Court.

(5) A person who attends as a witness or for the purpose of producing any document is entitled to be paid by the Chairman the reasonable expenses of his attendance.

(6) In the case of information obtained by a person in confidence or which is his trade secret, nothing in this rule requires him to disclose it to any person except the members of the Panel; and where such information is disclosed to members of the Panel, no person obtaining the information in consequence of that disclosure shall make any further disclosure of it.

### **Record of award**

**8.**-(1) Where an award comes into effect under section 8(5) of the Act, the terms of the award shall be recorded in a document signed by the Chairman.

(2) The Secretary to the Panel shall send a copy of the document to each party to the dispute.

(3) A document purporting to be a copy of the document referred to in paragraph (1) and certified as authentic by the Secretary to the Panel shall be admissible as evidence of the award in any proceedings.

### **Register of awards**

**9.**-(1) The Secretary to the Panel shall keep a register of the Panel's awards.

(2) On the coming into effect of an award under section 8(5) of the Act, the Secretary shall enter the award in the register.

(3) The Secretary shall make arrangements to secure that the register is open to inspection by members of the public, subject to the payment of any fees required to be paid by regulations under the Act.

### **Review**

**10.**-(1) Any person who is a party to an award (within the meaning of section 9 of the Act) may apply to the Panel to review the award; and the Panel shall grant the application if, and only if, they are satisfied-

(a) that some material fact was not brought to their attention during the inquiry under section 6 and that that fact would or might have had a substantial effect on the terms of the award if it had been brought to their attention; or

(b) that there has been a material change in circumstances since the award was made and that, if that change had occurred before the award was made, it would or might have had a substantial effect on the terms of the award.

(2) If all the parties to an award apply (either personally through their trade union or employers' association) to the Panel to review the award, the Panel shall grant the application.

(3) Where the Panel grant an application for review under paragraphs (1) or (2), the review shall be conducted in the same manner as an inquiry under section 6(1) of the Act, and the provisions of the Act and these rules shall apply accordingly.

(4) On a review under this rule, the Panel may -

(a) confirm the award;

(b) vary the award; or

(c) revoke the award and, if they think it appropriate, make a new award;

(but their powers to vary the award or make a new award are subject to the powers of the Minister under section 8 of the Act, as applied by paragraph (3)).

## **Appeals**

**11.** Order 60 of the High Court (Civil Procedure) Rules 1964 shall apply with the necessary modifications to appeals under section 13 of the Act as it applies to civil appeals against an interlocutory decision of a Magistrates' Court.

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**THE TRADE DISPUTES PANEL (UNFAIR DISMISSAL AND REDUNDANCY)  
PROCEDURE RULES**  
*(Section 3 (3))*

*LN 65/1983*

[20th July 1983]

## **Citation**

1. These Rules may be cited as the Trade Disputes Panel (Unfair Dismissal and Redundancy) Procedure Rules.

## **Interpretation**

2. In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say-

"applicant" means a person who in pursuance of rule 4 has presented a complaint to the Secretary for a decision of the Panel;

"Chairman" means the Chairman of the Panel;

"hearing" means a sitting of the Panel duly constituted for the purpose of receiving evidence, hearing addresses and witnesses or doing anything lawfully required to enable the Panel to reach a decision on any question;

"the Panel" means the Trade Disputes Panel;

"Register" means the Register of Applications and Decisions kept in pursuance of these Rules;

"respondent" means a party to the proceedings other than the applicant;

"Secretary" means the Secretary of the Panel.

## **Proof of decisions of Panel**

3. The production in any proceedings in any court of a document purporting to be certified by the Chairman to be a true copy of an entry of a decision in the Register shall unless the contrary is proved, be sufficient evidence of the decision and of the facts stated therein.

## **Complaint**

4.-(1) Proceedings for the determination of any matter by the Panel shall be instituted by the applicant presenting to the Secretary a complaint in Form A in the Schedule.

(2) Where the Chairman is of the opinion that the complaint does not seek or on the facts stated therein cannot entitle the applicant to relief which the Panel have power to give, he may give notice to that effect to the applicant stating the reasons for his opinion and informing him that the application will not be registered.

(3) An applicant to whom notice is given under paragraph (2) of this rule may appeal to the Panel against the notice by notice in writing to the Secretary served within 14 days of the receipt by him of such notice.

### **Action upon receipt of complaint**

5. Upon receiving a complaint the Secretary shall enter particulars of it in the Register and shall send a copy of it to the respondent. The copy of the complaint sent to the respondent shall be accompanied by notice of appearance in triplicate.

### **Conciliation**

6. The Chairman may, at any time, act as conciliator or appoint any person as a conciliator with a view to bringing about a settlement of the complaint.

### **Appearance by respondent**

7.-(1) A respondent shall within 21 days of receiving the copy of the complaint enter an appearance to the proceedings by presenting to the Secretary a completed notice of appearance in triplicate in Form B in the Schedule.

(2) A respondent who has not entered an appearance shall not be entitled to take any part in the proceedings.

(3) After presentation of the appearance by the respondent the Secretary shall send a copy to the applicant.

### **Power to require further particulars and attendance of witnesses and to grant discovery**

8.-(1) The Panel may on the application of a party to the proceedings made either by notice to the Secretary or at the hearing of the complaint, or if the Panel think fit of their own motion at any time -

(a) require a party to furnish in writing to any other party and the Panel further particulars of the grounds on which he relies and of any facts and contentions relevant thereto,

(b) grant to any party such discovery or inspection (including the taking of copies) of documents of the other party as the Panel think fit, and

(c) require the attendance of any person (including a party to the proceedings) as a witness or require the production of any document relating to the matter to be determined,

and may appoint the time at or within which or the place at which any act required in pursuance of this rule is to be done.

(2) The Chairman, at his discretion, shall determine whether or not notice shall be given to a party of any requirement made under paragraph (1) of this rule which does not impose a requirement upon him.

(3) A party on whom a requirement has been made under sub-paragraphs (a) and (b) of paragraph (1) of this rule may apply by notice served upon the Secretary to vary or set aside the requirement. Notice of an application under this paragraph shall be given to the other parties and the application shall be heard by the Panel.

(4) If a requirement under sub-paragraphs (a) and (b) of paragraph (1) of this rule is not complied with, the Panel, before or at the hearing, may dismiss the complaint, or, as the case may be, strike out the whole or part of the notice of any appearance, and, where appropriate, direct that a respondent shall be debarred from defending altogether.

(5) A person who fails to attend and give evidence or produce any document when required to do so under sub-paragraph of paragraph (c) of this Rule shall be guilty of an offence and liable on conviction to a fine not exceeding \$200.00 or imprisonment for three months or both.

### **Time and place of hearing**

9. The Chairman shall fix the date, time and place of the hearing of the complaint and the Secretary shall, not less than 14 days (or such shorter time as may be agreed by him with the parties), before the date so fixed send to each party a notice of hearing.

### **Pre-hearing assessment**

10.-(1) The Panel may at any time before the hearing (either on the application of either party made by notice to the Secretary or if the Panel of their own motion think fit) consider, by way of a prehearing assessment, the contents of the complaint and notice of appearance, any representation in writing which have been submitted and any oral argument advanced by or on behalf of a party and may give such directions at such prehearing assessment as they shall think fit as to matters arising in connection with the proceedings.

(2) If, upon a prehearing assessment under this rule, the Panel consider that the complaint is unlikely to succeed or that the contention of a party appears to have no reasonable prospect of success, it may indicate that, in their opinion, if the complaint shall not be withdrawn or the contention of the party shall be persisted in up to or at the hearing, the party in question may have an order for costs made against him at the hearing.

(3) Any indication of opinion made in accordance with paragraph (2) of this rule shall be recorded in a document signed by the Chairman a copy of which shall be sent to the parties to the proceedings and a copy of which shall be available to the Panel at the hearing.

### **Hearing**

**11.**-(1) The Panel may conduct the hearing in such manner as they consider most suitable to the clarification of the issues before it and generally to the just handling of proceedings.

(2) At any hearing of, or in connection with, a complaint a party may appear before the Panel and may be heard in person or be represented by a Barrister or a Solicitor or the Commissioner of Labour.

(3) If a party shall fail to appear at the time and place fixed for the hearing, the Panel may, if that party is an applicant dismiss, or, in any other case, dispose of the matter in the absence of that party or may adjourn the hearing to a later date.

(4) The Panel may require any witness to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.

### **Decision**

**12.**-(1) The decision of the Panel shall be recorded in a document signed by the Chairman which shall contain the reasons for the decision.

(2) The decision shall be entered in the Register by the Secretary and a copy of the decision shall be sent to the parties.

### **Extension of time and directions**

**13.**-(1) An application to the Panel for an extension of the time appointed by these Rules for doing any act may be made by a party.

(2) A party may at any time apply to the Panel for directions on any matter arising in connection with the proceedings.

(3) The Panel may grant or refuse an application made under this rule in their discretion.

### **Joinder**

**14.** The Panel may at any time either upon the application of any person, or if they think fit of their own motion, direct any person against whom any relief is sought to be joined as party to the proceedings, and give such consequential direction as they consider necessary.

### **Consolidation of proceedings**

**15.** Where there are pending before the Panel two or more complaints, then, if at any time it appears to the Panel whether on the application of a party or otherwise that-

(a) some common question of law or fact arises in both or all the complaints, or

(b) the relief claimed therein is in respect of or arises out of the same set of facts, or

(c) for some other reason it is desirable to make an order under this rule,

the Panel may order that some or all of the complaints shall be considered together, and may give such consequential directions as may be necessary:

Provided that the Panel shall not make an order under this rule without giving to all parties an opportunity to show cause why such an order should not be made.

### **Notices**

**16.**-(1) Any notice given under these Rules shall be in writing and service under these Rules shall be deemed effected if served in accordance with this rule.

(2) All notices and documents to be presented to the Secretary of the Panel may be presented at the office of the Panel for the time being.

(3) All notices and documents to be sent or given to any person may be sent by post or delivered to or at:-

(a) the person's address for service specified in a complaint or in a notice of appearance;

(b) if no address for service has been so specified, the person's last known address or place of business in Solomon Islands.

(4) Where a person is represented service upon that representative is service upon that person.

(5) The registered postal service shall be used for the service of any order made requiring that attendance of a witness or the production of a document.

(6) Where for any sufficient reason service of any document or notice cannot be effected in the manner prescribed under this Rule, the Chairman may make an order for substituted service in such manner as he may deem fit and such service shall have the same effect as service in the manner prescribed under this rule.

### **Costs**

**17.** The Panel may in their discretion award costs to either party

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## **SCHEDULE**

### **FORM A**



í ...

Telephone No. ....

(b) Place of employment to which this application relates or place where act complained about took place:

5. Place of employment to which this application relates or place where act complained about took place:

6. Occupation or position held now or earlier with Respondent:

7. Employment began on..... and ended on-

8. (a) Basic Wages/Salary per month .....

(b) Average take home pay

9. Other remuneration or benefits:

10. Normal basic weekly hours of work:

11. The grounds of this application are as follows:-

12. (If dismissed) If you wish to state what in your opinion was the reason for your dismissal, please do so here:

13. If the Panel decides that you were unfairly dismissed, what remedy do you seek:

Re-engagement/Compensation

Date ..... 198 .....

.....

Signature

FOR OFFICE USE	
NOAR Served	NOAR Lodged

\_\_\_\_\_

**FORM B**

FORM TDP 2

TRADE DISPUTES PANEL

Case No.

FOR OFFICIAL USE
DATE OF RECEIPT

NOTICE OF APPEARANCE BY RESPONDENT

Kindly complete this form in triplicate and return to:

Secretary,  
Trade Disputes Panel,  
Labour Division,  
Ministry of Employment,  
Youth & Social Development,  
Hibiscus Avenue,  
HONIARA.

NB. This form must be lodged within 21 days of receipt otherwise you will not be entitled to take any part in the proceedings.

1. I do/do not intend to resist the claim made by
2. My name is Mr/Mrs/Miss/title (if company or other organisation)

Address:-.....  
í  
í  
í í

Telephone No. ....

3. If you have arranged for a representative to act for you, please give his name and address below and note that further communications will be sent to him and not you.

Address:- .....

í .  
í .  
í .

4. (a) Was the applicant dismissed?  
YES/NO

(b) If YES, what was the reason for the dismissal?

(c) Do you agree that the dates given by the applicant as to his period of employment correct?  
YES/NO

(d) If NO, give dates of commencement ..... and termination

(e) Do you agree that details of remuneration stated by applicant are correct?  
YES/NO

(f) If not, or if the applicant has not stated such details please give the correct remuneration here:-

Basic Wages/Salary .....

Other pay/remuneration .....

5. If the claim is resisted, please give sufficient particulars to show the grounds on which you intend to resist.

Dated this .....day of .....198

.....  
Signature of Respondent

**THE TRADE DISPUTES REGULATIONS**  
*(Section 15 (1))*

*LN 38/1981*

*[1st July 1981]*

**Citation**

1. These Regulations may be cited as the Trade Disputes Regulations.

**Secretary, etc., to Trade Disputes Panel Fees**

2. The Minister shall-

(a) assign to a public officer the function of Secretary to the Trade Disputes Panel (in these Regulations referred to as "the Panel");

(b) provide the Panel with such other staff and such premises and other facilities as may be required for the performance of the functions of the Panel;

(c) reimburse the Panel for any expenses necessarily incurred by the Panel in the performance of their functions.

**Fees**

3.- (1) No application to the Panel to review an award shall be considered by the Panel unless it is accompanied by the prescribed fee.

(2) No copies of an award shall be provided by the Secretary to the Panel except on payment of the prescribed fee.

(3) In this regulation, "prescribed" means prescribed by the Minister; and the Minister shall give notice in such manner as he thinks fit of the fees prescribed under this regulation.

(4) Fees paid under this regulation shall go towards reducing the expenses of the Panel (and not into the Consolidated Fund).

**Offences under rules**

4.-(1) A person who refuses or wilfully neglects to comply with a requirement under rule 7(2) of the Trade Disputes Panel Rules (power to require attendance of witness, etc.) shall be guilty of an offence and liable to a fine of \$100 or imprisonment for three months, or both.

(2) A person who knowingly discloses any evidence in contravention of rule 7(6) of those Rules (information obtained in confidence, etc.) shall be guilty of an offence and liable to a fine of \$100, or imprisonment for three months, or both.

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