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PART I.—GENERAL.

GOVERNMENT NOTIFICATIONS.

L. D.—CF 28/42

THE DEFENCE (MISCELLANEOUS) REGULATIONS.

Order under Regulation 43c.

ORDER made by the Governor under Regulation 43c of the Defence (Miscellaneous) Regulations.

By His Excellency's command,

H. A. C. DOBBS,

Private Secretary to the Governor.

Colombo, March 19, 1942.

Order.

1. This Order may be cited as the Essential Services (Avoidance of Strikes and Lockouts) Order, 1942.

2. (1) In this Order—

“ Controller ” means the Controller of Labour and includes a Deputy and an Assistant Controller of Labour ;
“ district ” has the same meaning as in the Courts Ordinance ; and “ District Judge ” shall be construed accordingly ;
“ trade union ” has the same meaning as in the Trade Unions Ordinance ; and “ registered ”, when used with reference to a trade union, means registered under that Ordinance ;
“ trade dispute ” means any dispute or difference between employers and workmen, or between workmen and workmen, in, or in connexion with, or incidental to, the performance of any essential services ;
“ workman ” means a workman employed in essential services.

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(2) Where by this Order any act is authorised or required to be done by any workmen, that act may be done by any of such workmen as the representative of all the workmen or by any officer of any registered trade union of such workmen.

(3) Where any act required by this Order to be done by any workmen is not done by a representative of such workmen or by an officer of a registered trade union of such workmen as hereinbefore provided, each of such workmen shall be deemed to have failed to comply with this Order.

3. No person shall commence or continue, or participate in, or do any act in furtherance of, any strike or lockout in connexion with any trade dispute in any essential services.

4. (1) Where—

(a) any trade dispute arises between any employer and his workmen ; or
(b) any trade dispute between an employer and his workmen is settled by agreement,

it shall be the duty of the employer and of the workmen forthwith to notify the Controller in writing of the fact that such trade dispute has arisen or has been settled and to inform him of all particulars relating to such trade dispute or settlement, as the case may be.

(2) Where—

- (a) any trade dispute arises between workmen and workmen; or
 (b) any trade dispute between workmen and workmen is settled by agreement,

it shall be the duty of the workmen on either side forthwith to notify the Controller in writing of the fact that such trade dispute has arisen or has been settled and to inform him of all particulars relating to such trade dispute or settlement, as the case may be.

5. The District Judge of each district shall be the tribunal for the settlement of trade disputes in essential services in that district:

Provided that the Governor may appoint as the tribunal for the settlement of a particular trade dispute any other impartial person; and where any such appointment is made, any reference in this Order to a District Judge shall be construed as a reference to the person so appointed as though such person were the District Judge of the district in which the trade dispute arose.

6. (1) Where a trade dispute between an employer and his workmen arises in any district, the employer or the workmen may deliver to the Controller a petition praying for the settlement of the trade dispute by the District Judge of that district.

(2) On receipt of any such petition, the Controller shall, if he is satisfied that the petition relates to a trade dispute, transmit the petition to the District Judge.

7. (1) A District Judge may hear such evidence as he may deem necessary for the investigation of any trade dispute referred to him for settlement under the preceding paragraph of this Order, but shall not be bound by the rules of evidence.

(2) Where more than one petition has been received by a District Judge in relation to the same trade dispute or to similar trade disputes, all such petitions may be considered and dealt with together by that District Judge.

(3) The Controller shall be entitled to be present or to be represented at any inquiry held by a District Judge under this Order; and the employer or the workmen may be represented by Counsel at any such inquiry.

(4) In respect of any matters of procedure for which no express provision is made in this Order, the District Judge may adopt such procedure as he may deem proper and may issue directions accordingly.

8. (1) The findings of the District Judge on the matters at issue in any trade dispute referred to him for settlement shall be embodied in an award.

(2) Every Order made by a District Judge in the course of any inquiry or investigation into any trade dispute referred to him for settlement and every award made by him on any such reference shall, subject to the provisions of paragraph 9, be final and shall not be called in question in any court of law.

(3) The District Judge shall transmit to the Controller a copy of every award made by him under this Order and may, in his discretion, cause a copy of any such award to be furnished to any employer, or workman, or other person.

(4) The Controller shall cause due publicity to be given to the findings of a District Judge in any award, by notification in the *Gazette* or in the press or otherwise of a summary of such findings of the District Judge.

9. An award under sub-paragraph (1) of paragraph 8 shall not be reopened by a petition preferred under paragraph 6 for a period of six months reckoned from the date of that award unless there is attached to the petition a certificate under the hand of the Controller to the effect that a change in economic and labour conditions in the district warrants a reconsideration of the findings in that award before the expiry of such period of six months.

10. The Controller shall, when he receives notice of any trade dispute in any district or a petition for the settlement by a District Judge of any trade dispute in any district, refer the person giving such notice or the petitioner, as the case may be, to any award made by the District Judge of that district, on a reference for the settlement of a similar trade dispute.

11. (1) No employer shall, in any district, employ any workman in any essential services in that district on terms and conditions of employment less favourable than the recognized terms and conditions of employment for that district.

(2) In this paragraph, "recognized terms and conditions of employment", in relation to a workman in any essential services in any capacity in any district, means—

- (a) where the terms and conditions of employment of a workman employed in essential services in that district in the same or in a similar capacity have been set out in an award made by the District Judge of that district, the terms and conditions set out in that award;
- (b) where such terms and conditions have not been set out in an award as aforesaid, but in an agreement reached on a settlement of a trade dispute in that district, the terms and conditions set out in that agreement;
- (c) where such terms and conditions have not been set out in an award or in an agreement as aforesaid, the terms and conditions on which a workman in that district is ordinarily employed in the same capacity or in some similar capacity.

(3) Every employer of any workmen shall, on demand by the Controller, furnish to the Controller all such information and particulars as the Controller may require in respect of the terms and conditions of the employment of such workmen.

(4) For the purpose of enabling an employer of workmen in any district to comply with the requirements of sub-paragraph (1) of this paragraph, the Controller shall, on the application of any such employer, inform him of the recognized terms and conditions of employment of a workman employed in that district in any specified capacity in any essential services.

12. Nothing in the preceding provisions of this Order shall affect or be deemed or construed to affect the right of any employer or of any workmen in any district by agreement to refer any trade dispute or any matter at issue in any trade dispute for settlement or arbitration by the Controller or by any other person.