

No. 8 of 2024.

Kumul Consolidated Holdings Authorisation (Amendment) Act 2024.

Certified on : 20 NOV 2024



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ARRANGEMENT OF SECTIONS.

1. Interpretation (Amendment of Section 2).
 - “employee”
 - “employer”
 - “essential services”
 - “Minimum Services Regulations”
 - “strike”
 - “to strike”
 - “trade union”
 - “Work Notice”.

2. New Part VIB.

“PART VIB. - TRADE UNIONS AND STRIKES, ETC.

- 46T. NOTICE REQUIRED FOR STRIKES.**
- 46U. UNLAWFUL STRIKES.**
- 46V. POWER OF THE MINISTER TO SPECIFY MINIMUM SERVICE LEVELS.**
- 46W. WORK NOTICES RELATING TO MINIMUM SERVICE LEVELS.**
- 46X. IDENTITY OF EMPLOYEES.**
- 46Y. CONSULTATION REGARDING WORK NOTICE.**
- 46Z. VARIATION OF WORK NOTICE.**
- 46ZA. STRIKE DATE.**
- 46ZB. FAILURE OF UNION TO TAKE REASONABLE STEPS.”.**



No. 8 of 2024.

AN ACT

entitled

Kumul Consolidated Holdings Authorisation (Amendment) Act 2024,

Being an Act to amend the ***Kumul Consolidated Holdings Authorisation Act 2002*** -

- (a) to protect the provision of essential services provided by State-Owned Enterprises during a strike; and
 - (b) to create a controlled environment in which employees of Stated-Owned Enterprises could exercise their right to execute strikes,
- without disrupting the supply and provision of essential services to the public within the meaning of ***Essential Services Act 2002***, and for related purposes,

MADE by the National Parliament.

1. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended by inserting the following new definitions in alphabetical order:

- “employee” means any person employed in a Majority State-Owned Enterprise;
- “employer” means a Majority State-Owned Enterprise as defines by this Act;
- “essential services” has the same meaning given to it under Section 2 of the ***Essential Services Act 2002***;
- “Minimum Services Regulations” means the ministerial prerogative to issue minimum service levels relating to essential services when trade unions take strike actions;
- “strike” means the act of any number of employees of the same employer or of different employers -
 - (a) in discontinuing their employment, whether wholly or partially, or in reducing the normal performance of their employment; or
 - (b) in breaking their employment contracts; or
 - (c) in refusing or failing after any such discontinuance to resume or return to their employment; or
 - (d) in refusing or failing to accept engagement for any work in which they are usually employed; or
 - (e) in reducing their normal output or their normal rate of work, the said act being due to any combined agreement, common understanding or concerted action, whether expressed or implied, made or entered into by any employee, but does not include an employee’s meeting authorised by the employer or under any employment contract;
- “to strike” means to become a party to a strike;
- “trade union” has the same meaning given to it under Section 1 of the ***Industrial Organisations Act*** (Chapter 173);
- “Work Notice” means a notice in writing that levels of service under Minimum Service Regulations are to apply in relation to a strike or proposed strike.

2. NEW PART VIB.

The Principal Act is amended by inserting immediately after Part VIA the following new part:

“PART VIB. - TRADE UNIONS AND STRIKES, ETC.

46T. NOTICE REQUIRED FOR STRIKES.

(1) An employee who intends to participate in a strike shall give notice to the employer of his intention to participate in the strike in writing within 21 days before the date of the commencement of the strike.

(2) The notice shall specify -

- (a) a brief accurate exposition of the issue, grievance, complaint, action or matter giving rise to the proposed strike; and
- (b) the nature of the proposed strike, including whether or not the proposed strike will be continuous; and
- (c) the place or places where the proposed strike will occur; and
- (d) the date on which the strike will begin.

(3) The notice shall be signed either by the employee or on the employee's behalf by the trade union under its common seal.

(4) An employee shall not strike before the expiry of notice of his intention to strike given by -

- (a) the employee to his employer under Subsection (1); or
- (b) on the employee's behalf under Subsection (3).

(5) Where the authorised representative gives notice on behalf of the employees, the notice need not specify by name the employees where it is expressed to be given on behalf of all employees who are employed in a distinct part of the employer's business or at any particular place or places where the employer carries on business.

46U. UNLAWFUL STRIKES.

(1) Notwithstanding the provisions of any other law, participation by an employee of a State-Owned Enterprise in a strike that does not comply with Section 46K, is unlawful.

(2) Where a strike by an employee is unlawful, a remedy may be obtained by any affected person through an action brought in the National Court for an injunction or damages or for both against -

- (a) the employee; and
- (b) any person, including an incorporated body and its officers, who aided, abetted or counselled the employee to strike unlawfully.

46V. POWER OF THE MINISTER TO SPECIFY MINIMUM SERVICE LEVELS.

(1) The Minister may, for the purpose of enabling work notices under Section 46N to be given, provide Minimum Service Regulations for levels of service with respect to essential services during a strike.

Kumul Consolidated Holdings Authorisation (Amendment)

- (2) The Minimum Service Regulations shall come into effect -
- (a) on a day before a strike takes place; or
 - (b) even if the notice of intention to participate in a strike under Section 46K was given on or before the day on which the Minimum Service Regulations come into force.

46W. WORK NOTICES RELATING TO MINIMUM SERVICE LEVELS.

(1) Where a Minimum Service Regulation has been made with respect to an essential service, an employer is to give a Work Notice to a trade union in relation -

- (a) to any strike of which the trade union gave notice to the employer under Section 46K; and
- (b) to the essential services which will be affected by the strike.

(2) The employer must give a Work Notice -

- (a) within seven days after the notice under Section 46K was given and before the first day of the strike; or
- (b) any later day after Paragraph (a) that is agreed between the employer and the union.

(3) A Work Notice must -

- (a) identify the minimum number of employees required to work during the strike in order to ensure that the levels of service under the Minimum Service Regulation is provided; and
- (b) specify the work required to be carried out by them during the strike in order to ensure that those levels of service are provided.

46X. IDENTITY OF EMPLOYEES.

In deciding whether to identify an employee in a Work Notice, the employer must not have regard to -

- (a) whether the employee is or is not a member of a trade union; or
- (b) whether the employee has or has not -
 - (i) taken part in the activities of a trade union; or
 - (ii) made use of services made available to the employee by a trade union by virtue of the employee's membership of the union; or
- (c) whether or not -
 - (i) a matter has been raised on the employee's behalf (with or without the employee's consent); or
 - (ii) a trade union of which the employee is a member, has consented to the raising of a matter on behalf of the employee.

46Y. CONSULTATION REGARDING WORK NOTICE.

The employer must -

- (a) consult the union about the number of persons to be identified and the work to be specified in the notice; and
- (b) have regard to any views expressed by the union in response, before giving a Work Notice.

Kumul Consolidated Holdings Authorisation (Amendment)

46Z. VARIATION OF WORK NOTICE.

- (1) The employer may vary a Work Notice, so far as it relates to a strike date, and give the notice, as varied, to the trade union -
- (a) before the end of the fourth day before the strike date; or
 - (b) before the end of any later day after Paragraph (a) that is agreed between the employer and the union.
- (2) The employer must -
- (a) consult the union about the variation, so far as it relates to the matters mentioned in Subsection (1); and
 - (b) have regard to any views expressed by the trade union in response, before varying a Work Notice.

46ZA. STRIKE DATE.

For the purposes of this Part, where the strike takes place over more than one day (continuously or discontinuously) each day is to be treated as a separate strike date.

46ZB. FAILURE OF UNION TO TAKE REASONABLE STEPS.

(1) Where an employer gives a trade union a Work Notice in relation to a strike, an act done by the union to induce a person -

- (a) to participate in the strike; or
- (b) to continue to participate in the strike,

is not protected if the trade union fails to take reasonable steps to ensure that all members of the union who are identified in the Work Notice comply with the Work Notice.

(2) In a tort proceeding that is brought against a trade union because of Subsection (1), any loss suffered despite the trade union taking reasonable steps shall be disregarded in calculating any reasonable amount to be awarded against the trade union by way of damages.”.

I hereby certify that the above is a fair print of the *Kumul Consolidated Holdings Authorisation (Amendment) Act 2024* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Kumul Consolidated Holdings Authorisation (Amendment) Act 2024* was made by the National Parliament on 4 September 2024.

Speaker of the National Parliament.