

Bahamas Legislative Amendments: Industrial Relations

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The Industrial Relations (Amendment) Act 2017 (the "Amendment Act") has resulted in notable changes to an employer's duty to treat and deal with trade unions, and commence the bargaining process.

Employers now have a definitive time period of forty-five days from receipt of a claim for recognition, within which to enter into negotiations with a bargaining agent. The Minister of Labour is required to determine a claim for recognition and issue a certificate of determination within 90 days of the claim being referred to him for that purpose.

A forty-five day period has also been fixed as the timeframe within which an employer must commence the bargaining process upon receiving a proposed industrial agreement from a recognized trade union. The Amendment Act imposes penalties for non-compliance with both of these forty-five day periods.

It is also noteworthy that recognition, once determined, now attaches to a business regardless of any subsequent change in its ownership, regardless how the change in ownership came about, including but not limited to the employer's insolvency.

Among other favorable conditions now in place for trade unions is the obligation imposed on an employer to comply with an employee's request for deduction and payment of union dues from his salary. In the event an employer fails to comply with such a request, the trade union now has

standing to commence a Supreme Court action to compel the employer to comply.

Other favorable changes for trade unions are the statutory bars on withdrawing recognition granted to a union, and the greater ease of adding provisions to industrial agreements. In regard to the former, the support of fifty percent of the employees is now required for an application to revoke recognition. As concerns the latter, the minimum percentage of employees required to agree to the inclusion of further provisions in an industrial agreement has been lowered to fifty-one percent.

In addition to the above changes, the Amendment Act significantly increases the powers of the Industrial Tribunal, which may now impose fines in accordance with the Industrial Relations Act and the Employment Act.

The amendments will clearly serve to strengthen the bargaining position of trade unions. When faced with an issue affecting industrial relations, it would be prudent for employers to seek urgent legal advice as to their employees' collective bargaining rights and their duties as employers.

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