

MEMORANDUM FOR THE CABINET
BY THE HONOURABLE PRIME MINISTER

Negotiating Machinery

The memo prepared by the Hon. Minister of Justice and Parliamentary Affairs and the Hon. Minister of Labour, Employment and Welfare, proposed the establishment of a "National Negotiating (Civil Servants) Council". This Council was to replace the "Malta Government Joint Council". With a slight modification in the membership of the Staff Side the National Negotiating (Civil Servants) Council was to have the same functions as the Malta Government Joint Council.

2. A Negotiating Council is necessary to enable Government to ascertain the views of the staff on those matters affecting all civil servants alike, i.e. members of different associations. If on such matters, Unions and Associations were to be consulted separately it would never be possible for Government to obtain the agreed view of all the staff.

3. A Negotiating Council is not necessary on matters affecting a limited number of Civil Servants, i.e. members of one single union or association. In such matters direct negotiations between the union affected and the Government are speedier and more effective.

4. Likewise a Departmental Negotiating Council would be necessary to ascertain the views of the staff on matters affecting in a similar way all the members of that Department. It would be loss of time for all concerned to discuss in a Council of thirty members a matter affecting one grade only, when most of the members of the Council can in no way be affected.

5. In the United Kingdom unions and not individual grades are represented on the Staff Side of Whitley Councils, as it is considered to be the function of the Union to ascertain and put forward the views of the various categories of its members.

6. The General Workers Union have proposed the establishment of a "Health Whitley Council" with thirty members, eleven on the Official Side and nineteen on the Staff Side. They propose that only one Union, viz the union having the majority of members in hospitals, should be represented by three members: the Vice-Chairman, the Staff Side Secretary and another member. They propose that sixteen additional members should represent directly each of the various grades of hospital staff.

7. Establishments are of the view that individual grades should not be represented on a Council of this nature. Indeed a matter affecting, for instance, Midwives only should not be discussed in a Council; this would involve loss of time for all the other members. A matter affecting similarly all hospital staffs should be discussed with the Unions and not representatives of individual grades.

8. The Malta Civil Service being a very small one, all matters affecting Civil Servants in general, are dealt with centrally by the Prime Minister's Office in consultation with the Ministry of Finance. There might be scope for the establishment of Departmental Whitley Councils to deal with employees performing basically the same public service. For instance the Arton Wilson Commission had recommended two Departmental Councils viz. one for the Police and one for Teaching grades. Thus a good case might be made out for a Whitley Council catering for hospital staff. But the real point at issue is whether the establishment of Departmental negotiating machinery is preferable to a Whitley Council catering for all Government employees. It is the view of Establishments that, apart from the difficulties of staffing the official sides of these Councils, so long as there are several unions representing classes of Civil Servants, a general Negotiating Council, whether provided for in an Industrial Relations Bill as proposed by the Hon. Minister of Justice and the Hon. Minister of Labour, or established by agreement as was the case with the Malta Government Joint Council, should be preferred.

9. Ministers are asked to consider whether a National Negotiating (Civil Servants) Council should be established in preference to the setting up of a Hospital staff and eventually, other departmental Whitley Councils.

13th September, 1968

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CONFIDENTIAL

NOTE ON THE AMENDMENTS SUGGESTED TO THE INDUSTRIAL RELATIONS BILL

PART I

Section 2 - Definitions

"Trade Union" - to consider whether the word "masters" should be substituted by the word "employers".

"Workman" - to consider whether this definition includes trainees, juveniles, manual, clerical, supervisory, technical, professional, artistic employees. Also to consider whether workers in Defence establishments should be included in this definition.

PART II

Section 12 - On or after the last day of November and before the last day of December in every year, the Registrar shall, by notice in the Government Gazette, call upon all registered trade unions to transmit to him within 15 days -

- (a) (the same)
- (b) "the number of members forming the Union" and a declaration that the necessary alterations
- (c) (d) (the same).

Section 19 - The Registrar shall send to the Minister during the month of February of each year

PART III

No change.

PART IV

Section 27(b) - Add at the end: "This figure applies to the categories of workers for whom negotiations or disputes are considered."

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Section 28 - Replace this Section by the following:

"Within seven days of the submission of the statement, the Minister shall have the power to cause a count of the workmen employed by the employer concerned for the purpose of ascertaining whether the workers are members of the trade union or trade unions making the request for negotiations, as aforesaid; and when such a count has been carried out the Minister shall inform in writing the trade union or trade unions and the employer of the result of the count".

PART V

Section 32(4) - Replace this Section by the following:

"On the expiry of the said period of seven days, if a copy of the Industrial Agreement has not been delivered as aforesaid, the validity of the agreement shall no longer be legally binding".

PART VI

No change.

PART VII

At the end of this part, a new Section or Part is to be inserted regarding the constitution of the Labour Court. The Labour Court shall be composed of the President of the Industrial Court who shall hear all court cases concerning all Labour Legislation at present administered by the Department of Labour. (The Crown Advocate General is to study the implications of the criminal proceedings now existing in the Labour Legislation and to see how this could be converted into civil proceedings or reconciled to the new idea of the Labour Court). Proceedings before the Labour Court shall include all such cases involving conditions of work, including for example, loss of wages, hours of work, leave, sick leave, overtime, fines, discharges without a just cause, claims for notice money, etc. Cases under the Factories Ordinance, the Industrial Training Act, and Disabled Persons (Regulation of Employment) Act, etc. will also be referred to the Labour Court.

PART VIII

No change.

/PART IX

PART IX

- Section 55 - Replace the last two lines by the following:
 "To the Minister at least three days before the day on which it is intended that the lock-out or strike should commence; provided that if during the three days proceedings under Part VI or Part VIII of this Act are initiated, the period of three days becomes automatically extended to a total period of 7 days".
- Section 56 - Replace sub-section (d) by the following:
 "In order to assist others in cases in which these others are not themselves taking part in a lock-out or strike under the provisions of this Act".
- Sub-Section (3) - Replace this sub-section by the following:
 "Employers or workmen may not take part in a lock-out or strike:-
 (a) before the expiration of the period of notice mentioned in Section 55 of this Act;
 (b) within one year of an Arbitration Award under Part VI of this Act;
 (c) during Arbitration proceedings if such a strike were to cause a threat to the security of the State or if the strike were to stop essential services or supplies: Provided that a declaration to this effect by the Prime Minister is made in the House of Representatives".
- Section 57 - Replace this Section by the following:
 "Any employer or worker as the case may be may claim damages against any worker or employer who has engaged in an illegal strike or lock-out and for failure to abide by the conditions of an Award under Section 54 of this Act".
- Section 59 - Delete this Section.

PART XTHE NATIONAL NEGOTIATING (CIVIL SERVICE) COUNCIL

- Section 60 (1) - Replace this Section by the following:-
 "There shall be a National Negotiating (Civil Service) Council which shall exercise and perform the functions assigned to it by this Act.

- (2) The Council shall be composed of representatives of trade unions and associations representing the following classes of civil service employees:
- (a) the General Service Class;
 - (b) the Professional, Scientific and Technical Class;
 - (c) the teaching class;
 - (d) the Departmental class;
 - (e) the Industrial class and Miscellaneous.
- (3) The Council shall be composed of not more than 10 members to represent the official side and appointed by the Prime Minister and by 10 members to represent equally each of the five classes of employees. The latter 10 members shall be appointed by the trade unions representing the largest number of employees in that particular sector, provided that more trade unions representing the same class of public officers may combine their strength for the purposes of representations".

Section 60 (2), (3) - These two sub-sections are to be deleted.

Sub-sections (4), (5), (7) and (8) are to remain the same.

Sub-section (6) to be deleted.

Sections 61, 62, 63 and 64 are to remain the same.

At the end of Section 64 the following new sections are to be inserted.

Section 65 - All trade unions representing employees in each of the groups mentioned above may form committees for the study of matters of interest to the group and the views expressed in such committees may be submitted to the National Negotiating (Civil Service) Council by their representatives in such Council.

Section 66 - Whitley Councils may be formed for particular grades, which shall be special negotiating bodies not on national level. The points raised at these councils which are considered to affect other classes of employees or which impinge on the rights and conditions of the general civil service, shall be passed to the National Negotiating

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(Civil Service) Council, where one member of the Union concerned may be co-opted as observer. Matters which are of interest to the general civil service, shall be referred to the National Negotiating (Civil Service) Council on which a representative of the Whitley Council shall have the right to appear as observer.

Section 67 - In cases of disagreement at Whitley Council level, the issues may be referred to the Minister for such action under this Act as he may deem proper in all the circumstances of the case, whereupon all the provisions of this Act, which may be applicable to the case, shall apply.

PART XI

This part shall remain the same except for the re-numbering of these Sections, i.e. 68 to 72 instead of 65 to 69.