

CHAPTER 57.

TRADES UNIONS.

[No. XVII of 1921.]

[18th June, 1921.]

Short title. 1. This Ordinance may be cited as the Trades Unions Ordinance.

PRELIMINARY.

Interpreta- 2. In this Ordinance, unless the context otherwise
tion: requires,—

“ trade union ” means any combination, whether temporary or permanent, the principal objects of which are under its constitution statutory objects :

Proviso.

Provided that any combination which is for the time being registered as a trade union shall be deemed to be a trade union as defined by this Ordinance so long as it continues to be so registered ;

“ statutory objects ” means the regulation of the relations between workmen and masters, or between workmen and workmen, or between masters and masters, or the imposing of restrictive conditions on the conduct of any trade or business, and also the provision of benefit to members ;

“ the registrar ” means the registrar appointed under this Ordinance ;

“ the rules ” or “ rules ” means rules made under this Ordinance.

Trade unions. 3. The fact that a combination has, under its constitution, objects or powers other than statutory objects within the meaning of this Ordinance shall not prevent its being a trade union for the purposes of this Ordinance so long as it is a trade union as defined by this Ordinance, and any trade union shall have power to apply the funds of the union for any lawful objects or purposes for the time being authorised under its constitution.

4. This Ordinance shall not affect—

Exemptions.

- (a) any agreement between partners as to their own business;
- (b) any agreement between an employer and those employed by him as to the employment;
- (c) any agreement in consideration of the sale of the goodwill of a business, or of instruction in any profession, trade, or handicraft.

CRIMINAL AND CIVIL PROVISIONS.

5.—(1) The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful so as to render any member of the union liable to criminal prosecution for conspiracy or otherwise.

When objects of union not unlawful.

(2) The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust.

6. Nothing in this Ordinance shall enable any court to entertain any legal proceedings instituted with the object of directly enforcing or recovering damages for the breach of any agreement—

When trade union contracts not enforceable.

- (a) between members of a trade union as a union concerning the conditions on which any members for the time being of the union shall or shall not sell their goods, transact business, employ, or be employed; or
- (b) for the payment by any person of any subscription or penalty to a trade union; or
- (c) for the application of the funds of a trade union,
 - (i) to provide benefits to members; or
 - (ii) to furnish contributions to any employer or workman not a member of that union, in consideration of the employer or workman acting in conformity with the rules or resolutions of that union; or
 - (iii) to discharge any fine imposed upon any person by sentence of a court of justice; or

(d) made between one trade union and another; or of any bond to secure the performance of any of the above-mentioned agreements but nothing in this section shall be deemed to constitute any of the above-mentioned agreements unlawful.

Prohibition
of actions of
tort against
unions.

7.—(1) An action against a trade union, whether of workmen or masters, or against any members or officials thereof on behalf of themselves and all other members of the union, in respect of any tortious act alleged to have been committed by or on behalf of that union, shall not be entertained by any court.

(2) Nothing in this section shall affect the liability of the trustees of a trade union to be sued in the events provided for by section fifteen of this Ordinance, except in respect of any tortious act committed by or on behalf of the union in contemplation or in furtherance of a trade dispute.

Chapters 214
and 178 not
applicable
to unions :

8. The following Ordinances, that is to say,
(a) the Friendly Societies Ordinance, and any Ordinances amending it; and
(b) the Companies (Consolidation) Ordinance, and any Ordinances amending it,

shall not apply to a trade union :

Proviso.

Provided that a trade union which insures or pays money on the death of a child under ten years of age shall be deemed to be within the provisions of section thirty-seven of the Friendly Societies Ordinance.

REGISTERED TRADE UNIONS.

Appointment
of registrar
of unions.

9. The Governor may appoint some fit and proper person to be the registrar of trade unions, who shall receive the remuneration fixed by the rules.

Register of
unions.

10. The registrar shall keep a register of all trade unions registered under this Ordinance in the form required by the rules, and shall discharge all the duties required by this Ordinance and by the rules.

Registration
of unions.

11. Any seven or more members of a trade union may, by subscribing their names to the rules of the union, and otherwise complying with the provisions of this Ordinance with respect to registration, register the union under this Ordinance, but if any one of the purposes of that union is unlawful the registration shall be void.

Land for
unions may
be purchased
or leased.

12. Any trade union registered under this Ordinance may purchase or take upon lease, in the names of the trustees for the time being of the union, any land not exceeding one acre, and may sell, exchange, mortgage, or let the

land, and no purchaser, assignee, mortgagee, or tenant, shall be bound to inquire whether the trustees have authority for any sale, exchange, mortgage, or letting, and the receipt of the trustees shall be a discharge for the money arising therefrom; and for the purposes of this section every branch of a trade union shall be considered a distinct union.

13.—(1) All movable and immovable property whatsoever belonging to any trade union registered under this Ordinance shall be vested in the trustees for the time being of the union, appointed as provided by this Ordinance, for the use and benefit of the union and the members thereof, and the movable or immovable property of any branch of a trade union shall be vested in the trustees of that branch, or in the trustees of the union, if the rules of the union so provide, and be under the control of the trustees, their respective executors or administrators, according to their respective claims and interests.

Property of unions vested in trustees.

(2) Upon the death or removal of any of the trustees, the property shall vest in the succeeding trustees for the same estate and interest as the former trustees had therein, and subject to the same trusts, without any conveyance or assignment whatsoever, except in the case of stocks and securities in the public funds of the colony, which shall be transferred into the names of the new trustees.

(3) In all actions, or suits, or indictments, or summary proceedings before any court of summary jurisdiction, touching or concerning any of the property, it shall be stated to be that of the person or persons for the time being holding the office of trustee, in his or their proper names, as trustees of the trade union, without any further description.

14. When anyone who is or has been a trustee of a trade union registered under this Ordinance, or of any branch of a trade union, and whether appointed before or after the legal establishment thereof, and in whose name any stock belonging to that union or branch transferable at any bank in the colony is standing, either jointly with another or others, or solely, is absent from the colony or becomes insolvent, or files any petition, or executes any deed for liquidation of his affairs by assignment or arrangement or for composition with his creditors, or becomes a lunatic, or is dead, or has been removed from his office of trustee, or if it is unknown whether that

In cases of disability of trustees.

person is living or dead, the registrar, on application in writing from the secretary and three members of the union or branch, and on proof satisfactory to him, may direct the transfer of the stock into the names of any other persons as the trustees for the union or branch; and the transfer shall be made by the surviving or continuing trustees or trustee, and if there is none of those trustees or if that trustee refuses or is unable to make the transfer and the registrar so directs, then by the manager of the bank; and the bank is hereby indemnified for anything done in pursuance of this provision against any claim or demand of any person injuriously affected thereby.

Actions by
or against
trustees.

15. The trustees of any trade union registered under this Ordinance, or any other officer of the union authorised so to do by the rules thereof, are hereby empowered to bring or defend, or cause to be brought or defended, any action, suit, prosecution, or complaint in any court of law or equity, touching or concerning the property, right, or claim to property of the union; and shall and may, in all cases concerning the movable or immovable property of the union, sue and be sued, plead and be impleaded, in any court of law or equity, in their proper names, without other description than the title of their office; and the action, suit, prosecution, or complaint shall not be discontinued, nor shall it abate, by the death or removal from office of those persons or any of them, but shall and may be prosecuted by their successor or successors as if the death, resignation, or removal had not taken place; and those successors shall pay or receive the like costs as if the action, suit, prosecution, or complaint had been commenced in their names for the benefit of, or to be reimbursed from, the funds of the union, and the summons to be issued to the trustee or other officer may be served by leaving it at the registered office of the union.

Limitation
of responsi-
bility of
trustees.

16. A trustee of any trade union registered under this Ordinance shall not be liable to make good any deficiency which may arise or happen in the funds of the union, but shall be liable only for the moneys actually received by him on account of the union.

Officers'
accounts,
and audit.

17. Every treasurer or other officer of a trade union registered under this Ordinance, at the times at which by the rules of the union he should render the account hereinafter mentioned, or upon being required so to do, shall

render to the trustees of the union, or to the members thereof, at a meeting of the union, a just and true account of all moneys received and paid by him since he last rendered the like account, and of the balance then remaining in his hands, and of all bonds or securities of the union, which account the trustees shall cause to be audited by some fit and proper person or persons by them to be appointed.

(2) The treasurer, if thereunto required, upon the account being audited, shall forthwith hand over to the trustees the balance which on the audit appears to be due from him, and shall also, if required, hand over to the trustees all securities and effects, books, papers, and property of the union in his hands or custody.

(3) If the treasurer fails to do so the trustees of the union may sue him in any competent court for the balance appearing to have been due from him upon the account last rendered by him, and for all the moneys since received by him on account of the union, and for the securities and effects, books, papers, and property in his hands or custody, leaving him to set off in the action the sums (if any) he has since paid on account of the union; and in the action the trustees shall be entitled to recover their full costs of suit, to be taxed as between solicitor and client.

18. If any officer, member, or other person, being or representing himself to be a member of a trade union registered under this Ordinance, or the nominee, executor, administrator, or assignee, of a member thereof, or any person whatsoever, by false representation or imposition, obtains possession of any moneys, securities, books, papers, or other effects of the union, or, having them in his possession, wilfully withholds or fraudulently misapplies them, or wilfully applies any part of them to purposes other than those expressed or directed in the rules of the union, or any part thereof, the court of summary jurisdiction for the place in which the registered office of the union is situate, upon a complaint made by anyone on behalf of the union, or by the registrar, may, by summary order, order that officer, member or other person, to deliver up all those moneys, securities, books, papers, or other effects to the union, or to repay the amount of money applied improperly, and to pay, if the court thinks fit, a further sum of money not exceeding one hundred dollars, together with costs not exceeding five dollars; and, in default of that delivery or repayment of that amount of money or payment of that penalty and costs, the court may

Withholding
or mis-
applying
union effects :

penalty :

order the person so convicted to be imprisoned, with or without hard labour, for any time not exceeding three months:

Proviso.

Provided that—

- (a) nothing herein contained shall prevent the union from proceeding by indictment against the party aforesaid; and
- (b) no one shall be proceeded against by indictment if a conviction has been previously obtained for the same offence under the provisions of this Ordinance.

REGISTRATION OF TRADE UNION.

Regulations
for registra-
tion.

19. With respect of the registration, under this Ordinance, of a trade union, and its rules, the following provisions shall have effect:

- (a) an application to register the union and printed copies of the rules, together with a list of the titles and names of the officers, shall be sent to the registrar under this Ordinance;
- (b) the registrar, upon being satisfied that the union has complied with the regulations respecting registration in force under this Ordinance shall register the union and its rules;
- (c) no union shall be registered under a name identical with that by which any other existing trade union has been registered, or so nearly resembling that name as to be likely to deceive the members or the public;
- (d) the registrar shall not register any combination as a trade union unless in his opinion, having regard to the constitution of the combination, its principal objects are statutory objects, and may withdraw the certificate of registration of any registered union if the constitution of the union has been so altered that, in his opinion, its principal objects are no longer statutory objects, or if in his opinion the principal objects for which it is actually carried on are not statutory objects;
- (e) anyone aggrieved by refusal of the registrar to register a combination as a trade union, or by the withdrawal under this section of a certificate of registration, may appeal to the Supreme Court within the time and in the

manner and on the conditions directed by rules of court; and the decision of the Court shall be final;

- (f) where a union applying to be registered has been in operation for more than a year before the date of the application, there shall be delivered to the registrar before the registration thereof a general statement of its receipts, funds, effects, and expenditure, in the same form, and showing the same particulars as if it were the annual general statement hereinafter required to be transmitted annually to the registrar;
- (g) the registrar, upon registering the union shall issue a certificate of registration, which certificate, unless proved to have been withdrawn or cancelled, shall be conclusive evidence that the regulations of this Ordinance with respect to registration have been observed;
- (h) the Governor in Council may from time to time make regulations respecting registration under this Ordinance, and respecting the seal (if any), and the forms, to be used for the purpose of registration, and the inspection of documents kept by the registrar under this Ordinance, and respecting the fees (if any) to be paid on registration, not exceeding the fees specified in the second schedule hereto, and, generally, for carrying this Ordinance into effect.

Second
schedule.

20. With respect to the rules of a trade union registered under this Ordinance, the following provisions shall have effect:

Rules of
registered
unions.

- (a) the rules of every union shall contain provisions in respect of the several matters mentioned in the first schedule hereto;
- (b) a copy of the rules shall be delivered by the union to every person on demand on payment of a sum not exceeding twenty-five cents.

First
schedule.

21.—(1) Every trade union registered under this Ordinance shall have a registered office to which all communications and notices may be addressed; if any union under this Ordinance is in operation for seven days without having that office, the union and every

Registered
office of
unions.

officer thereof shall each incur a penalty not exceeding twenty-five dollars for every day during which it is so in operation.

(2) Notice of the situation of the registered office, and of any change therein, shall be given to the registrar and recorded by him, and until that notice is given the union shall not be deemed to have complied with the provisions of this Ordinance.

Withdrawal
or cancella-
tion of
certificate of
registration.

22.—(1) No certificate of registration of a trade union shall be withdrawn or cancelled otherwise than by the registrar, and in the following cases :

- (a) at the request of the union to be evidenced in the manner from time to time directed by him;
- (b) on proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that the registration of the union has become void under section eleven of this Ordinance, or that the union has willfully and after notice from the registrar violated any of the provisions of this Ordinance, or has ceased to exist;
- (c) under the provisions of paragraph (d) of section nineteen of this Ordinance.

(2) With regard to paragraphs (a) and (b) of the preceding sub-section, not less than two months' previous notice in writing specifying briefly the ground of any proposed withdrawal or cancellation of certificate (unless the registration is shown to have become void as aforesaid, in which case it shall be the duty of the registrar to cancel the certificate forthwith) shall be given by the registrar to the trade union before the certificate of its registration can be withdrawn or cancelled (except at its request).

(3) A trade union whose certificate of registration has been withdrawn or cancelled shall, from the time of the withdrawal or cancellation, absolutely cease to enjoy as such the privileges of a registered trade union, but without prejudice to any liability actually incurred by the union, which may be enforced against it as if the withdrawal or cancellation had not taken place.

MISCELLANEOUS.

Membership
of minors.

23. A person under the age of twenty-one, but above the age of sixteen, may be a member of a trade union, unless provision is made in its rules to the contrary, and may,

subject to those rules, enjoy all the rights of a member except as herein provided, and execute all instruments and give all acquittances necessary to be executed or given under the rules of the union, but shall not be a member of the committee of management, trustee, or treasurer of the union.

24. A member of a trade union, not being under the age of sixteen years, may, by writing under his hand, delivered at or sent to the registered office of the union, nominate any person, not being an officer or servant of the union (unless the officer or servant is his husband, wife, father, mother, child, brother, sister, nephew, or niece), to whom any moneys payable on his death, not exceeding two hundred and forty dollars, shall be paid at his decease, and may from time to time revoke or vary the nomination by a writing under his hand similarly delivered or sent; and on receiving satisfactory proof of the death of a nominator, the union shall pay to the nominee the amount due to the deceased member not exceeding that sum.

Member's
nomination
of payee.

25.—(1) A trade union may, with the approval in writing of the registrar, change its name by the consent of not less than two-thirds of the total number of members.

Change of
union's
name.

(2) No change of name shall affect any right or obligation of the union or of any member thereof, and any pending legal proceedings may be continued by or against the trustees of the union or any other officer, who may sue or be sued on behalf of the union notwithstanding its new name.

26. Any two or more trade unions may, by the consent of not less than two-thirds of the members of each of those unions, become amalgamated together as one trade union, with or without any dissolution or division of their funds, or the funds of either or any of them; but no amalgamation shall prejudice any right of a creditor of either or any union party thereto.

Amalgama-
tion of
unions.

27. Notice in writing of every change of name or amalgamation, signed, in the case of a change of name, by seven members and countersigned by the secretary of the trade union changing its name, and accompanied by a statutory declaration by the secretary that the provisions of this Ordinance in respect of changes of names have been complied with, and in the case of an amalgamation signed by

Registration
of change of
names and
amalgama-
tions.

seven members and countersigned by the secretary of each or every union party thereto, and accompanied by a statutory declaration by each or every secretary that the provisions of this Ordinance in respect of amalgamations have been complied with, shall be sent to the registrar to be registered, and until that change of name or amalgamation is so registered it shall not take effect.

Dissolution.

28. Notice of every dissolution of a trade union under the hand of the secretary and seven members of the union shall be sent within fourteen days thereafter to the registrar, and shall be registered by him.

Failure to give notice or send document.

29. A trade union which fails to give any notice, or send any document which by this Ordinance it is required to give or send, and every officer or other person bound by the rules thereof to give notice or send the document, or if there is not that officer, then every member of the committee of management of the union, unless proved to have been ignorant of, or to have attempted to prevent, the omission to give or send the notice or document, is liable on summary conviction to a penalty of not less than five dollars and not more than twenty-five dollars, recoverable at the suit of the registrar or of any person aggrieved, and to an additional penalty of the like amount for each week during which the omission continues.

Penalty.

Annual returns.

30.—(1) A general statement of the receipts, funds, effects, and expenditure of every trade union registered under this Ordinance shall be transmitted to the registrar before the first day of June in every year, and shall show fully its assets and liabilities at the date, and its receipts and expenditure during the year preceding the date, to which the statement is made out; and shall show separately the expenditure in respect of the several objects of the union, and shall be prepared and made out up to the date, in the form, and comprise the particulars from time to time required by the registrar; and every member of, and depositor in, the union shall be entitled to receive, on application to the treasurer or secretary of the union, a copy of the general statement, without making any payment therefor.

(2) Together with the general statement there shall be sent to the registrar a copy of all alterations of rules and new rules and changes of officers made by the union

during the year preceding the date up to which the general statement is made out, and a copy of the rules of the union as they exist at that date.

(3) Every trade union which fails to comply with or acts in contravention of this section, and also every officer of the union so failing, shall each be liable on summary conviction to a penalty not exceeding twenty-five dollars Penalty. for each offence.

(4) Everyone who wilfully makes, or orders to be made, any false entry in, or any omission from, any general statement aforesaid, or in or from the return of the copies of rules or alterations of rules, shall for each offence on summary conviction be liable to a penalty not exceeding Penalty. two hundred and forty dollars.

31. The registrar shall lay before the Legislative Council annual reports with respect to the matters transacted by him in pursuance of this Ordinance. Registrar's reports.

32. Everyone who, with intent to mislead or defraud, gives to any member of a trade union registered under this Ordinance, or to any person intending or applying to become a member of the union, a copy of any rules, or of any alteration or amendments thereof, other than those respectively which exist for the time being, on the pretence that they are the existing rules of the union, or that there are no other rules of the union, and everyone who, with the intent aforesaid, gives a copy of any rules to anyone on the pretence that they are the rules of a trade union registered under this Ordinance which is not so registered, shall be liable on summary conviction to a penalty not exceeding fifty dollars. Circulating false copies of rules. Penalty.

SCHEDULES.

FIRST SCHEDULE.

Of matters to be provided for by the rules of trade unions registered under this Ordinance.

1. The name of the trade union and place of meeting for its business.
2. The whole of the objects for which the trade union is to be established, the purposes for which its funds shall be applicable, and the conditions under which any member may become entitled to any benefit thereby, and the fines and forfeitures to be imposed on any member of the trade union.

