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THE TRADE UNION LAW (CAP. 171)
(1998 Revision)

Revised under the authority of the Law Revision Law (19 of 1975).

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Cap. 171-1st January, 1964.

Revised this 27th day of January, 1998.

TRADE UNION LAW

(1998 Revision)

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TRADE UNION LAW

(1998 Revision)

PART I-Introductory

1. This Law may be cited as the Trade Union Law (1998 Revision). Short title

2. In this Law- Definitions

“registered” in respect of trade unions, means registered under this Law;

“Registrar” means the Registrar of trade unions appointed by the Governor under section 4;

“trade dispute” means any dispute between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment, or the terms of the employment, or with the conditions of labour, of any person;

“trade union” means any combination whether temporary or permanent, the principal purposes of which are, under its constitution, the regulation of the relations between workmen and employers, or between workmen and workmen, or between employers and employers whether such combination would or would not, if this Law had not been enacted, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade:

Provided that nothing in this Law-

 - (a) shall affect-
 - (i) any agreement between partners as to their own business;
 - (ii) any agreement between an employer and those employed by him as to such employment; or
 - (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft; or
 - (b) shall preclude any trade union from providing benefits for its members;

“workmen” means all persons employed in trade or industry, whether or not in the employment of the employer with whom a trade dispute arises.

3. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful- Purposes of trade union not unlawful

- (a) so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise; or
- (b) so as to render void or voidable any agreement or trust.

PART II-Registration of Trade Unions

Registrar and register 4. (1) The Governor shall appoint a person to be the Registrar of trade unions.

(2) The Registrar shall keep a register of all trade unions registered.

Trade unions to be registered 5. (1) Upon the establishment of a trade union, it shall be the duty of the committee of management or trustees appointed in that behalf, or in default of any such appointment, the directing authority, by what name it may be called, of such union, to make application for registration within thirty days after the date of the establishment of such union.

(2) Whoever fails to comply with subsection (1) is guilty of an offence and liable on conviction to a fine of fifty dollars, and to an additional fine of fifty dollars for each week during which the omission continues.

Penalty for taking part in proceedings of unregistered trade unions 6. If an application for registration of a trade union has not been made as required by this Law or if registration of a trade union has been refused or cancelled, every member of such trade union who continues as a member thereof, and every person who takes part in any meeting or proceedings of a trade union, knowing that such trade union is not registered under this Law, is guilty of an offence and liable on conviction to a fine of four dollars.

Provisions for registration 7. With respect to the registration of a trade union and of the rules thereof-

- (a) an application to register the trade 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;
- (b) the Registrar, upon being satisfied that the objects of the trade union are lawful and that the trade union has complied with the regulations respecting registration, shall register such trade union and such rules;
- (c) no trade union shall be registered under a name identical with that by which any other existing trade union has been registered, or so nearly resembling such name as to be likely to deceive the members of the public;
- (d) where a trade union applying to be registered has been in operation for more than a year before the date of such application, there shall be delivered to the Registrar before the

registration thereof a general statement of the receipts, funds, effects and expenditure of such trade union in the same form, and showing the same particulars, as if it were the annual general statement required as hereinafter mentioned to be transmitted annually to the Registrar;

- (e) the Registrar, upon registering such trade union, shall issue a certificate of registration, which certificate, unless proved to have been withdrawn or cancelled, shall be conclusive evidence that this Law and any regulations made thereunder, with respect to registration have been complied with; and
- (f) the Governor in Council may, from time to time, make regulations respecting registration, and respecting the seal, if any, to be used for the purpose of such registration, the forms to be used for such registration, the inspection of documents kept by the Registrar, the fees, if any, to be paid on registration, not exceeding the fees specified in the First Schedule and generally for carrying this Law into effect.

8. With respect to the rules of a registered trade union-

Rules of trade union

- (a) the rules of each such trade union shall contain provisions in respect of the matters mentioned in the Second Schedule; and
- (b) a copy of the rules shall be delivered by the trade union to every person on demand on payment of a sum not exceeding ten cents.

9. (1) Every registered trade union shall have a registered office to which all communications and notices may be addressed.

Registered office of trade union

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

(3) If any trade union is in operation for seven days without having such an office, such trade union and every officer thereof is guilty of an offence and liable on conviction to a fine of ten dollars for every day during which it is so in operation.

10. (1) No certificate of registration of a trade union shall be withdrawn or cancelled otherwise than by the Registrar, and in the following cases-

Withdrawal or cancellation of certificate

- (a) at the request of the trade union to be evidenced in such manner as the Registrar may, from time to time, direct; or
- (b) on proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that the trade union has

wilfully, and after notice from the Registrar, violated any of the provisions of this Law or has ceased to exist.

(2) Not less than two months' previous notice in writing, specifying briefly the ground of any proposed withdrawal or cancelling of a certificate, shall be given by the Registrar to a trade union before the certificate of registration of the trade union may 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 such withdrawal or cancelling, absolutely cease to enjoy as such the privileges of a registered trade union, but without prejudice to any liability actually incurred by such trade union, which may be enforced against it as if such withdrawal or cancelling had not taken place.

Appeal against refusal
or cancellation of
registration

11. (1) If the Registrar is satisfied that-

- (a) the applicants are not duly authorised to apply for registration;
- (b) the purposes of the trade union are unlawful; or
- (c) the application is not in conformity with this Law,

he may refuse registration.

(2) When the Registrar refuses to register a trade union he shall forthwith inform the applicants in writing of the grounds of refusal.

(3) An appeal shall lie to the Grand Court-

- (a) from the refusal of the Registrar to register a trade union; and
- (b) from a decision of the Registrar to cancel the registration of a trade union,

and on such appeal the Grand Court may make such order as it thinks proper including any directions as to the costs of the appeal. Any such order of the Grand Court shall be final.

(4) The Grand Court may make rules governing such appeals providing for the method of giving evidence, prescribing the time within which such appeals shall be brought, the fees to be paid, procedure to be followed and the manner of notifying the Registrar of the appeal.

(5) The Registrar shall be entitled to be heard on any appeal.

PART III-Powers, duties and constitution

Registered union may
deal in land

12. (1) It shall be lawful for any registered trade union to purchase or take upon lease in the name of the trustees for the time being of such union any land

not exceeding one acre, and to sell, exchange, mortgage or let such land, and no purchaser, assignee, mortgagee or tenant shall be bound to inquire whether the trustees have authority for the sale, exchange, mortgage or letting, and the receipt of the trustees shall be a discharge for the money arising therefrom.

(2) For the purposes of subsection (1), every branch of a trade union shall be considered a distinct union.

13. (1) All real and personal property belonging to-

Real and personal property to be vested in trustees

- (a) any registered trade union shall be vested in the trustees for the time being of the trade union appointed as provided by this Law, for the use and benefit of such trade union and the members thereof; or
- (b) any branch of a trade union shall be vested in the trustees of such branch or of the trustees of the trade union if the rules of the trade union so provide,

and shall be under the control of such trustees, their respective executors or administrators, according to their respective claims and interests. Upon the death or removal of any such trustees such 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.

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

14. (1) The trustees of any registered trade union, or any other officer of such trade union who may be authorised so to do by the rules thereof, are 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 trade union, and, in all such cases, to 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.

Trustees empowered to bring and defend actions, etc.

(2) No such action, suit, prosecution or complaint shall be discontinued or shall abate by the death or removal from office of such persons or any of them, but it may be proceeded in by their successor or successors, as if such death, resignation or removal had not taken place; and such 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 such trade union.

(3) The summons to be issued to such trustee or other officer may be served by leaving the same at the registered office of the trade union.

Name may be changed

15. (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.

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

Unions may amalgamate

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

Notice of change of name or of amalgamation

17. Notice in writing of every change of name or amalgamation signed-

- (a) in the case of a change of name, by seven members, countersigned by the secretary of a trade union changing its name and accompanied by a statutory declaration by such secretary that the provisions of this Law in respect of changes of name have been complied with; or
- (b) in the case of any amalgamation, by seven members, countersigned by the secretary of each or every union party thereto and accompanied by a statutory declaration by each or every such secretary that the provisions of this Law in respect of amalgamation have been complied with,

shall be sent to the Registrar for registration, and until such change of name or amalgamation is so registered it shall not take effect.

Minors

18. A person under the age of eighteen, but above the age of sixteen, may be a member of a trade union, unless provision is made in the rules thereof to the contrary, and may, subject to the rules of the trade union, enjoy all the rights of a member except as herein provided, execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the committee of management, trustee or treasurer of the trade union.

19. (1) 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 trade union, nominate any person not being an officer or servant of the trade union (unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew or niece of the nominator), to whom any moneys payable on the death of such member not exceeding one hundred dollars shall be paid at his decease, and may, from time to time, revoke or vary such nomination by a writing under his hand similarly delivered or sent.

Power to nominate persons to receive moneys on death

(2) On receiving satisfactory proof of the death of a nominator, the trade union shall pay to the nominee the amount due to the deceased member not exceeding one hundred dollars.

20. The rules of every trade union shall provide for the manner of its dissolution, and notice of every dissolution of a trade union under the hand of the secretary and seven members shall be sent within fourteen days thereafter to the Registrar and shall be registered by him.

Dissolving a union

PART IV-Financial

21. (1) The treasurer of every trade union (or such other officer as is designated in that behalf by the rules of the trade union) shall, on or before the 1st June in every year, cause to be received by the Registrar-

Statement of accounts and audit certificate to be transmitted to Registrar

- (a) a statement, in the prescribed form, of the revenue and expenditure of the trade union during the twelve months preceding the date of such statement;
- (b) a statement, in the prescribed form, of the assets and liabilities of the trade union at the date of the statement required by paragraph (a);
- (c) an audit certificate, in the prescribed form, by an auditor approved by the Governor for the purpose, to the effect that such statement of revenue and expenditure and such statement of assets and liabilities have each been audited by such auditor, who has had access to and has checked all accounts, receipts, vouchers and books of the trade union relating to transactions during the twelve months in respect of which the statements are made up, and that such statements have been found to be true and correct;
- (d) a statement of the total membership of the trade union at the date of such statements; and
- (e) a return relating to the period of twelve months immediately preceding the date of such statement and showing-
 - (i) all new rules of the trade union and all alterations to existing rules made during the period; and

(ii) all changes in the officers of the trade union during the period.

(2) In addition to the statements, accounts, certificate and return required by subsection (1), the Registrar may, at any time, by order in writing require the treasurer or any other officer of a trade union to deliver to him, by a date to be specified by the Registrar, detailed accounts of the revenue, expenditure, assets, liabilities and funds of the trade union in respect of any period specified in such order, and any accounts so rendered shall furnish such details and information, and be supported by such documents, as the Registrar in any case may require.

(3) Every member of, and depositor in, any trade union shall be entitled to receive, on application to the treasurer or secretary of the trade union, a copy of all or any of the statements and accounts, and of the certificate and return provided for by this section, without making any payments therefor.

(4) Every trade union which, and every officer of a trade union who, contravenes subsection (1) or an order of the Registrar under subsection (2), and every treasurer and secretary of a trade union who fails to comply with an application made under subsection (3) is guilty of an offence and liable on conviction to a fine of twenty dollars for each such offence.

(5) Upon a conviction for any offence under subsection (4), the Court may order the offending trade union or any specified officer thereof (whether or not such officer has been convicted) to deliver to the Registrar by a specified date (which shall not be earlier than fourteen days from the date of the order)-

- (a) all or any of the statements, accounts, certificate and return referred to in subsection (1), in cases where the conviction relates to an offence in respect of such subsection; or
- (b) all or any of the accounts, statements, details, information and documents referred to in any order made by the Registrar under subsection (2), in cases where the conviction relates to an offence in respect of a failure to comply with any such order,

and any trade union which, and any officer of a trade union who, fails to comply with such order is, in respect of such failure, guilty of an offence and liable on conviction to a fine of four dollars in respect of each day or part of a day, during which such failure shall have continued.

(6) Whoever wilfully makes or causes to be made any false entry in, or omission from, any of the statements, accounts, certificates, returns or rules required by this section is guilty of an offence and liable on conviction to a fine of one hundred dollars for each offence.

(7) The Registrar may make rules providing for the forms to be used for the purposes of this section, and the forms in such rules shall respectively be the “prescribed forms” referred to in this section.

22. (1) Every treasurer or other officer of a registered trade union, at such time as by the rules of such trade union he should render an account, or upon being required so to do, shall render to the trustees of the trade union, or to the members of such trade union, at a meeting of the trade union, a just and true account-

Officers to render accounts

- (a) of all moneys received and paid by him since he last rendered the like account;
- (b) of the balance then remaining in his hands; and
- (c) of all bonds or securities of such trade union,

which account such trustees may cause to be audited by some fit and proper person or persons by them to be appointed.

(2) Such treasurer, if thereunto required, upon such account being audited, shall forthwith hand over to the trustees the balance which, on such audit, appears to be due from him, and shall also, if required, hand over to such trustees all securities and effects, books, papers and property of the trade union in his hands or custody, and if he fails to do so, the trustees of the trade union may sue such treasurer 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 trade union, and for the securities and effects, books, papers and property in his hands or custody, leaving him to set off in such action the sums, if any, which he may have since paid on account of the trade union. In any such action the trustees shall be entitled to recover their full costs of suit to be taxed as between solicitor and client.

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

Limit of trustees' liability

24. (1) When any person, being or having been a trustee of a trade union or of any branch of a trade union, and whether appointed before or after the legal establishment thereof, in whose name any stock belonging to such union or branch transferable at any bank in the Islands is standing either jointly with another or others, or solely, is absent from the Islands, becomes bankrupt 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, is dead or has been removed from his office of trustee, or if it be unknown whether such person is living or dead, the Registrar on application in writing from the secretary

Transfer to new trustees

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 trustees for the union or branch.

(2) Such transfer shall be made by the surviving or continuing trustees, and if there be no such trustee, or if such trustee refuses or is unable to make such transfer, and the Registrar so directs, then the manager of any such bank; and the bank is hereby indemnified for anything done by it or any of its officers in pursuance of this provision against any claim or demand of any person injuriously affected thereby.

PART V-Special provisions

Agreement or combination, when not a conspiracy

25. (1) An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime.

(2) An act done in pursuance of an agreement or combination by two or more persons shall, if done in contemplation or furtherance of a trade dispute, not be actionable unless this act, if done without any such agreement or combination, would be actionable.

(3) Nothing in this section shall exempt from punishment any persons guilty of the offence of conspiracy, nor affect the law relating to riot, unlawful assembly, breach of the peace or sedition, or any offence against the state or the sovereign.

(4) A crime for the purposes of this section means an offence punishable on indictment, or an offence which is punishable on summary conviction, and for the commission of which the offender is liable, under the statute making the offence punishable, to be imprisoned either absolutely or at the discretion of the Court as an alternative for some other punishment.

Peaceful picketing and prevention of intimidation, etc.

26. (1) It shall be lawful for one or more persons, acting on their own behalf or on behalf of a trade union or of an individual employer or firm in contemplation or furtherance of a trade dispute, to attend at or near a house or place where a person resides, works, carries on business or happens to be, if they so attend merely for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or abstain from working:

Provided that it shall not be lawful for one or more persons (whether acting on their own behalf or on behalf of a trade union or of an individual employer or firm, and notwithstanding that they may be acting in contemplation or furtherance of a trade dispute) to attend at or near a house or place where a person resides, works, carries on business or happens to be, for the purpose of obtaining or communicating information or of persuading or inducing any person to work or to abstain from working, if they so attend in such numbers or otherwise in such manner as to be calculated to intimidate any person in that house or place, to obstruct the approach thereto or egress therefrom or to lead to a breach of the peace.

(2) In this section-

“injury” includes injury to a person in respect of his business, occupation, employment or other source of income, and includes any actionable wrong; and

“intimidate” means cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or to any of his dependants, or of violence or damage to any person or property.

(3) Notwithstanding anything in any law it shall not be lawful for one or more persons, for the purpose of inducing any person to work or to abstain from working, to watch or beset a house or place where a person resides or the approach to such a house or place.

(4) Whoever contravenes the proviso to subsection (1), or subsection (3), is guilty of an offence and liable on conviction to a fine of forty dollars or to imprisonment for three months.

27. An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable on the ground only that it induces some other person to break a contract of employment or that it is an interference with the trade, business or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills.

Removal of liability for interfering with another person's business

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

Prohibition of actions of tort against trade unions

(2) Nothing in this section affects the liability of the trustees of a trade union to be sued in the events provided for by section 13, except in respect of any

tortious act committed by or on behalf of the union in contemplation or in furtherance of a trade dispute.

PART VI-Miscellaneous

Misapplying property,
etc., of a trade union

29. If any officer, member or other person being or representing himself to be a member of a registered trade union, or the nominee, executor, administrator or assignee of a member thereof, or any person whatsoever, by false representation or imposition-

- (a) obtains possession of any moneys, securities, books, papers and other effects of such trade union;
- (b) having them in his possession, wilfully withholds or fraudulently misapplies them, or any part thereof; or
- (c) wilfully applies them, or any part thereof, to purposes other than those expressed or directed in the rules of such trade union,

any two Justices for the district in which the registered office of the trade union is situate or for the district where the offence had been committed, upon a complaint made by any person on behalf of such trade union, or by the Registrar, may by summary order, order such officer, member or other person to deliver up all such moneys, securities, books, papers or other effects to the trade union, or to repay the amount of money applied improperly, and in addition to pay, if the Court think fit, a fine of forty dollars, together with costs not exceeding two dollars and, in default of such delivery of effects, or repayment of such amount of money, or payment of such fine and costs, to imprisonment with hard labour for three months:

Provided that nothing herein contained shall prevent the said trade union from proceeding by indictment against such person:

Provided, however, that no person shall be proceeded against by indictment if a conviction has been previously obtained for such offence under this Law.

Liability for misleading
persons

30. Whoever, with intent to mislead or defraud, gives to any member of a registered trade union, or to any person intending or applying to become a member of such trade union, a copy of any rules or of any alterations or amendments of the same other than those respectively which exist for the time being, on the pretence that they are the existing rules of such trade union, or whoever, with such intent, gives a copy of any rules to any person on the pretence that such rules are the rules of a registered trade union which is not so registered, is guilty of an offence and liable on conviction to imprisonment with hard labour for six months.

31. A trade union which fails to give any notice or send any document which it is required by this Law to give or send, and every officer or other person bound by the rules thereof to give or send such notice or document, or if there be no such 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 such notice or document, is guilty of an offence and liable on conviction to a fine of ten dollars, and to an additional fine of ten dollars for each week during which the omission continues.

Penalty for failing to give notice, etc.

32. Where not otherwise specifically provided all offences against this Law may be prosecuted and recovered in a summary manner before two Justices.

How offences may be prosecuted and penalties recovered

33. (1) If any party feels aggrieved by any order or conviction made by two Justices on determining any complaint or information, the party so aggrieved may appeal therefrom to the Grand Court;

Provisions for appeal

(2) The appellant shall, within twenty-one days after the cause of appeal has arisen, give notice to the other party and to the Clerk of the Court of his intention to appeal and of the ground thereof.

(3) The appellant shall, immediately after such notice, enter into a recognisance before the Clerk of Court in the sum of twenty dollars with two sufficient sureties in the sum of twenty dollars conditioned personally to try such appeal, to abide the judgment of the Court thereon and to pay such costs as may be awarded by the Court.

(4) Where the appellant is in custody, the Clerk of the Court may, on the appellant entering into such recognisance, release him from custody.

(5) The Grand Court, upon the hearing thereof, may confirm, reverse or modify the decision of the two Justices or remit the matter to the two Justices with the opinion of the Grand Court thereon or make such other order in the matter as the Court thinks just, and if the matter be remitted to the two Justices they shall rehear and decide the information or complaint in accordance with the opinion of the Court. The Grand Court may make such order as to costs to be paid by either party as the Court thinks just.

FIRST SCHEDULE

(Section 7)

FEES

| | |
|--|------|
| | \$ |
| For registering a trade union | 2 |
| For registering an alteration in rules | 1 |
| For inspection of documents | 0.25 |

SECOND SCHEDULE

(Section 8)

Matters to be Provided for by the Rules of Trade Unions Registered Under This Law

1. The name of the trade union and place of meeting for the business of the trade union.
2. The whole of the objects for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, the conditions under which any member may become entitled to any benefit assured thereby and the fines and forfeitures to be imposed on any member of such trade union.
3. The manner of making, altering, amending and rescinding rules.
4. The appointment and removal of a general committee of management, of a trustee or trustees, a treasurer and other officers, and the duties of such committee, trustees, treasurer and officers.
5. The keeping of books and accounts as required by this Law, and the investment of the funds of the trade union.
6. The inspections of the books and the names of members of the trade union by every person having an interest in the funds of the trade union.

Publication in revised form authorised by the Governor in Council this 27th day of January , 1998.

Carmena H. Parsons
Clerk of Executive Council