



Tonga

TRADE UNIONS ACT

1988 Revised Edition



TRADE UNIONS ACT

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Tonga

TRADE UNIONS ACT

Act No. 12 of 1964

AN ACT RELATING TO TRADE UNIONS AND INDUSTRIAL DISPUTES

Commencement [3rd November, 1964]

1 Short title.

This Act may be cited as the Trade Unions Act.

PART I

2 Interpretation.

In this Act, unless the context otherwise requires—

“**trade union**” means any number of persons associated together for their own benefit, for the improvement of their working conditions, for the protection of the interests of workers with respect to their employers, for regulating the relations between employers and workers, for promoting good feeling and understanding between themselves and between worker and employer and includes the provision of financial benefits to members;

“**registered**” means registered under this Act;

“**Registrar**” means the Registrar of Trade Unions.

3 Trade unions not unlawful.

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 such trade union liable to criminal prosecution for conspiracy or otherwise.

4 Trade unions not unlawful for civil purposes.

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

5 Trade unions prohibited from carrying on business unless registered.

- (1) No trade union or any member thereof shall perform any act in furtherance of the purposes for which it has been formed unless such trade union has first been registered.
- (2) Any trade union or any officer or member thereof who contravenes the provisions of this section shall be guilty of an offence punishable with a fine not exceeding \$50.

6 Registrar of trade unions.

The Prime Minister may appoint such person as he may think fit to be the Registrar of Trade Unions.

7 Registration of trade unions.

Any 7 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 Act with respect to registration, register the trade union under this Act:

Provided that if any one of the purposes of the trade union be unlawful the registration shall be void.

8 Compulsory registration.

- (1) Every trade union shall be registered in accordance with the provisions of this Act or be dissolved within 3 months of the date—
 - (a) of its formation; or

- (b) of any notification by the Registrar that he has refused under section 10 to register the trade union.
- (2) Every trade union which is not registered or dissolved within the period prescribed in subsection (1) and every officer thereof shall be guilty of an offence punishable with a fine not exceeding \$10 for every day it remains unregistered after the expiration of such period.

9 Rules for registration.

With respect to the registration under this Act of a trade union and of the rules thereof, the following provisions shall apply—

- (a) an application to register the trade union and its rules shall be sent to the Registrar with copies of the rules and a list of the titles and names of the officers of the trade union;
- (b) the Registrar upon being satisfied that the trade union has complied with the rules respecting registration in force under this Act shall, subject to the provisions of section 10, register the trade union and 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) the Registrar upon registering a trade union shall issue a certificate of registration.

10 Refusal of registration.

- (1) If the Registrar is satisfied that—
 - (a) the applicants have not been duly authorized to apply for registration, or
 - (b) the purposes of the trade union are unlawful, or
 - (c) the application is not in conformity with the provisions of this Act,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 his refusal.
- (3) There shall be a right of appeal from a refusal of the Registrar to register a trade union to Cabinet within 60 days from the date of notification of such refusal.

11 Cancellation of registration.

- (1) It shall be lawful for the Registrar to cancel the registration of any trade union—
 - (a) at the request of the trade union, to be evidenced in such manner as he may direct;
 - (b) on proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that such trade union has wilfully, and after notice from the Registrar, violated any of the provisions of this Act, or has ceased to exist.
- (2) Not less than 2 months' notice specifying briefly the grounds of the proposed cancellation (except where the trade union has ceased to exist in which case notice of cancellation may be given forthwith) shall be given by the registrar to the trade union before such cancellation is effected.
- (3) There shall be a right of appeal from the decision of the Registrar under this section to the Cabinet within 90 days from the date of notification of such decision.

12 Officers of trade union to account.

- (1) Every treasurer or other officer of a registered trade union shall, at such times as by the rules thereof he should, render such accounts as hereinafter mentioned, or having been required so to do, shall render to the members thereof, at a meeting of the trade 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 and securities of such trade union.
- (2) Such account shall be audited by some fit and proper person or persons to be appointed by the trade union.
- (3) Upon the account being audited the treasurer or other officer as the case may be shall, if thereupon required, hand over to the trade union the balance which on such audit appeared to be due from him, and shall also if required hand over to the trade union all securities and effects, books, papers and property in his hands or custody, leaving him to set off the sums, if any, which he may have since paid on account of such trade union.

13 Audited accounts to be sent to registrar.

- (1) Every registered trade union shall transmit to the Registrar the account prepared and audited in accordance with section **12** within 3 months of its

submission to the members of the trade union, or within such longer period as the Registrar may for good cause allow.

- (2) Every officer of a registered trade union which fails to comply with the provisions of this section shall be guilty of an offence punishable with a fine not exceeding \$50.

14 Rules of registered trade unions.

With respect to the rules of a registered trade union, the following provisions shall have effect—

- (a) the rules of every trade union shall contain provisions in respect of the several matters mentioned in the Schedule hereto;
- (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 10 seniti.

15 Alterations of rules of trade unions.

- (1) Every alteration of the rules of a registered trade union shall be registered with the Registrar and shall take effect from the date of registration unless some later date is specified in the rules.
- (2) The rules of a registered trade union shall not be altered so that they cease to contain provisions in respect of the several matters in the Schedule.

16 Rules by Prime Minister.

The Prime Minister, with the consent of Cabinet, may make rules respecting registration under this Act and in particular but without prejudice to the generality of the foregoing power with respect to—

- (a) the seal, if any, to be used by the Registrar for the purpose of registration under this Act;
- (b) the forms to be used for such registry;
- (c) the inspection of registers and documents kept by the Registrar and the making of copies of any entries therein;
- (d) the fees to be charged for registration and inspection and any other service or matter prescribed or permitted by this Act; and
- (e) generally for carrying this Part of this Act into effect.

PART II

17 Interpretation.

In this Part—

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

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

18 Immunity of trade unions from actions for tort.

- (1) An action against a trade union, or against any members or officials thereof 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.
- (2) Nothing in this section shall affect the liability of a trade union or any official thereof to be used in any Court touching or concerning the property or rights of a trade union, except in respect of any tortious act committed by or on behalf of the union in contemplation or in furtherance of a trade dispute.

19 Conspiracy in relation to trade disputes.

- (1) An agreement or combination of 2 or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be triable 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 2 or more persons shall, if done in contemplation or furtherance of a trade dispute, not be actionable unless the act, if done without any such agreement or combination, would be actionable.
- (3) Nothing in this section shall exempt from punishment any person guilty of a conspiracy for which a punishment is awarded by any law in force in the Kingdom.

- (4) Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace or sedition or any offence against the State or the Sovereign.
- (5) A crime for the purposes of this section means an offence for the commission of which the offender is liable to be imprisoned, either absolutely or at the discretion of the Court as an alternative for some other punishment.

20 Removal of liability for interfering with another person's business.

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.

21 Intimidation or annoyance.

- (1) Every person who, with a view to compel any other person to abstain from doing or to do any act which the other person has a legal right to do or abstain from doing, wrongfully and without legal authority—
 - (a) uses violence to or intimidates such other person or his wife or children, or injures his property, or
 - (b) persistently follows such other person about from place to place, or
 - (c) hides any tools, clothes or other property owned or used by such other person, or deprives him of or hinders him in the use thereof, or
 - (d) watches or besets the house or other place where such other person resides or works, or
 - (e) follows such other person with 2 or more other persons in a disorderly manner in or through any street or road,

shall be guilty of an offence punishable with a fine not exceeding \$40 or with imprisonment for a term not exceeding 3 months.

22 Peaceful picketing and prevention of intimidation.

Notwithstanding anything contained in this Act, it shall be lawful for one or more persons, acting on their 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 or works or 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.

SCHEDULE

(Section 14)

1. The Name 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, and 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 the trade union.
3. The manner of making, altering, amending and rescinding rules.
4. A provision for the appointment and removal of a general committee of management, of a treasurer and other officers.
5. A provision for the keeping of full and accurate accounts by the treasurer.
6. A provision for the investment of the funds or their deposit in a bank and for an annual or periodical audit of accounts.
7. The inspection of the books and names of members of the trade union by every person having an interest in the funds of the trade union.
8. The manner of dissolving the trade union.