



ST HELENA

REVISED EDITION OF THE LAWS, 2017

EMPLOYMENT & COMMERCE

TRADE UNIONS AND TRADE DISPUTES ORDINANCE, 1959¹

Ordinance 3 of 1959

In force 25 July 1959

Amended by Ordinance 12 of 2017

Subsidiary legislation:

TRADE UNIONS REGULATIONS, 1959

Legal Notice 13 of 1959

TRADE UNIONS AND TRADE DISPUTES ORDINANCE, 1959

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¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

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AN ORDINANCE to regulate trade unions and trade disputes.

PART I PRELIMINARY

Short title and application

1. This Ordinance may be cited as the Trade Unions and Trade Disputes Ordinance, 1959, and applies only to St Helena and Ascension.

Interpretation

2. (1) In this Ordinance—
- “**registered**” means registered under this Ordinance;
- “**Registrar**” means the Registrar of Trade Unions appointed under section 6;
- “**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 employment or 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 masters or between workmen and workmen or between masters and masters, whether such combination would or would not if this Ordinance had not been enacted have been deemed to be an unlawful combination by reason that some one or more of its purposes was in restraint of trade.
- (2) Nothing in this Ordinance affects—
- (a) any agreement between parties as to their own business;
 - (b) any agreement between an employer and a person or persons employed by the employer to such employment;

- (c) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession trade or handicraft.

PART II POWERS AND DUTIES OF TRADE UNIONS

Trade unions not criminal

3. The purposes of a trade union are not by reason merely that they are in restraint of trade deemed to be unlawful so as to render any member of the trade union liable to criminal prosecution for conspiracy or otherwise.

Trade union not unlawful for civil purposes

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

Trade unions prohibited from carrying on business unless registered

5. (1) No trade union or any member of it may perform any act in furtherance of the purposes for which it has been formed unless the trade union has first been registered.

(2) Every trade union which contravenes subsection (1), and every officer of it, commits an offence.

Penalty: A fine of £25.

(3) Every member of a trade union who contravenes subsection (1) commits an offence.

Penalty: A fine of £25

Registrar of Trade Unions

6. The Governor may appoint any person the Governor thinks fit to be Registrar of Trade Unions and if no such appointment be made the Chief Secretary is to be Registrar.

Who may apply for registration

7. (1) Any 7 or more members of a trade union who have been duly authorised by the trade union for the purpose may by subscribing their names to the rules of the trade union and otherwise complying with the provisions of this Ordinance with respect to registration apply to the Registrar for registration of the trade union under this Ordinance:

(2) If any one or more of the purposes of the trade union is unlawful, registration under subsection (1) is void.

Compulsory registration

8. (1) Every trade union must either be registered in accordance with this Ordinance or be dissolved within 3 months of —

- (a) its formation; or

- (b) any notification by the Registrar that registration of the trade union has been refused under section 10.

whichever is the later.

(2) Every trade union which is not registered or dissolved within the period prescribed in subsection (1) and every officer of it commits an offence.

Penalty: A fine of £5 for every day that the trade union remains unregistered after the expiration of the prescribed period.

Provisions applicable to registration

9. With respect to the registration under this Ordinance of a trade union the following provisions apply—

- (a) an application to register the trade union must be sent to the Registrar with a copy of the rules and a list of the names and offices of the officers of the trade union;
- (b) the Registrar upon being satisfied that the trade union has complied with this Ordinance and of any regulations made under it respecting registration must, subject to section 10, register the trade union;
- (c) a trade union must not be registered under a name identical with that by which any existing trade union has been registered or so nearly resembling such name as to be likely to deceive;
- (d) the Registrar upon registering a trade union must issue a certificate of registration.

Refusal of registration

10. (1) If, when an application is made for the registration of a trade union the Registrar is satisfied that—

- (a) the applicants have not been duly authorised to apply for registration;
- (b) the purposes of the trade union are unlawful;
- (c) the trade union is an organisation primarily covering more than one trade or industry and its constitution does not suitably provide for the protection and promotion of the respective industrial interests of all members of the trade union; or
- (d) the application is not in conformity with the provisions of this Ordinance and of any regulations made under it,

the Registrar may refuse registration.

(2) If the Registrar refuses to register a trade union he or she must immediately inform the applicants in writing of the grounds of the refusal.

(3) An appeal lie to the Supreme Court from a refusal of the Registrar to register a trade union. On such an appeal -

- (a) the Supreme Court may make any order it thinks proper including any directions as to the costs of the appeal; and
- (b) any such order of the Supreme Court is final.

(4) The Chief Justice may make rules governing appeals under subsection (3), providing for the method of giving evidence and prescribing the time within which such appeals are to be brought, the fees to be paid, the procedure to be followed and the manner of notifying the Registrar of the appeal.

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

Cancellation of registration

- 11.** (1) The Registrar may cancel the registration of a trade union—
- (a) at the request of the trade union, to be evidenced in a manner the Registrar directs;
 - (b) on proof to the satisfaction of the Registrar 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 contravened any provision of this Ordinance;
 - (c) on proof to the satisfaction of the Registrar that the trade union has ceased to exist.

(1A) Registration of a trade union must not be cancelled under subsection (1)(b) unless not less than 60 days' notice stating the grounds of the proposed cancellation has been given by the Registrar to the trade union before the cancellation is effected;

(2) An appeal from a decision of the Registrar under subsection (1) lies to the Supreme Court, subject to the same conditions as are provided in section 10 for an appeal against the refusal of the Registrar to register a trade union, and the Chief Justice may make rules providing for those matters for which rules may be made in respect of such an appeal.

- (3)** The decision of the Supreme Court on an appeal under subsection (2) is final.

Age of members and officers of trade unions

- 12.** In relation to a registered trade union -
- (a) a person under the age of 15 may not be a member;
 - (b) a person under the age of 18 is not entitled to vote at a meeting; and
 - (c) a person under the age of 21 must not be an officer.

Officers of trade unions

13. Not less than $\frac{2}{3}$ of the officers of every registered trade union must be persons engaged or employed in an industry or occupation with which the trade union is connected.

Application of funds

14. The funds of a registered trade union must be expended only in accordance with its rules and this Ordinance, and must not be expended except for the following objects—

- (a) the payment of salaries, allowances and expenses to officers of the trade union;
- (b) the payment of the expenses of administration of the trade union including audit of its accounts;
- (c) the prosecution or defence of any legal proceeding to which the trade union or any member of it is a party if such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the trade union or any rights arising out of the relation of the member with his or her employer or with a person whom the member employs;
- (d) the conduct of trade disputes on behalf of the trade union or any member of it;
- (e) the compensation of members of the trade union for loss arising out of trade disputes;

- (f) the payment of allowances to members of the trade union or their dependants on account of the death, old age or sickness of or accidents to such members.

Prohibition of payment of fines and penalties

15. The funds of a registered trade union must not be applied directly or indirectly in payment of the whole or a part of any fine for a criminal offence imposed upon any person by sentence or order of a court.

Use of funds for political purposes

16. The funds of a registered trade union must not be applied directly or indirectly in payment of contributions to any political party or for any political purpose.

Officers of trade union to account

17. (1) Every person who is a treasurer of a registered trade union or other officer is responsible for the accounts of a trade union or for the collection, disbursement, custody or control of its funds or money must, upon resigning or vacating office and at least once a year at a time specified in the rules of the trade union and at any other time when required so to do by a resolution of the members of the trade union or by its rules, render to the trade union a just and true account of -

- (a) all money the person has received and paid since assuming office, or if it has been previously done, since the last date on which it was done;
- (b) the balance remaining in the person's hands at the time of rendering the account; and
- (c) all bonds securities and other property of the trade union in the person's custody or control.

(2) The account rendered under subsection (1) must be audited by some fit and proper person approved by the Registrar within 3 months of the date upon which it was rendered to the trade union.

(3) When such account has been audited the person mentioned in subsection (1) must if required by the trade union to do so immediately hand over to the trade union the balance which appears to be due from the person together with all bonds securities and other property of the trade union in the person's custody or control.

Audited accounts to be sent to Registrar

18. (1) A registered trade union must send to the Registrar any account audited in accordance with section 17 within one month of the completion of the audit.

(2) Every trade union which fails to comply with subsection (1), and every officer of it, commits an offence.
Penalty: A fine of £25.

Inspection of accounts, etc

19. The account books of a registered trade union and a list of the members of it

must be open to inspection -

- (a) by any officer or member of the trade union at a time prescribed in the rules of the trade union; and
- (b) by the Registrar at any reasonable time.

Rules of registered trade unions

20. With respect to the rules of a registered trade union the following provisions have effect—

- (a) the rules must contain provisions in respect of the several matters prescribed in the Schedule;
- (b) a copy of the rules must be delivered by the trade union to every member of the trade union on payment of a sum not exceeding 5p.

Alteration of rules of trade unions

21. (1) Every alteration of the rules of a registered trade union must be registered with the Registrar and takes effect on the date of ~~their~~ registration or any later date prescribed in the rules.

(2) The rules of a registered trade union must not be altered so that they cease to contain provisions in respect of the several matters prescribed in the Schedule.

Extraordinary contributions

22. (1) A member of a trade union must not be demanded by or on behalf of the trade union to pay any extraordinary contribution, being a contribution for which no provision is made in the rules of the trade union, until the extraordinary contribution has been notified to the Registrar. If the Registrar is not satisfied that such contribution has been duly sanctioned by the trade union and that it is for one or more of the purposes for which the funds of the trade union are applicable in accordance with the rules of the trade union, the Registrar may require that -

- (a) the extraordinary contribution immediately cease to be demanded; and
- (b) any payment in respect of such extraordinary contribution be refunded.

(2) A person who fails to comply with subsection (1) or with a requirement of the Registrar under that subsection commits an offence.

Penalty: A fine of £25.

Regulations

23. The Governor in Council may make regulations with respect to registration under this Ordinance and in particular, but without limiting that power, with respect to—

- (a) the seal to be used by the Registrar for the purpose of registration under this Ordinance;
- (b) the forms to be used for such registration;
- (c) the inspection of registers and documents kept by the Registrar and the making of copies of any entries in them;
- (d) the fees to be charged for registration and inspection and any other service or matter prescribed or permitted by this Ordinance; and

(e) generally for carrying this Part into effect.

PART III TRADE DISPUTES

Immunity of trade unions from actions of tort

24. (1) An action against a trade union whether of workmen or masters or against any members or officials of a trade union 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 may not be entertained by any court.

(2) This section does not affect the liability of a trade union or any official of it to be sued in any Court touching or concerning the property or rights of the trade union except in respect of any tortious act committed by or on behalf of the trade union in contemplation or furtherance of a trade dispute.

Conspiracy in relation to trade disputes

25. (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 is not triable as a conspiracy if the act if committed by one person is not punishable as a crime.

(2) An act done in pursuance of an agreement or combination by 2 or more persons in contemplation or furtherance of a trade dispute is not actionable if the act if done without such agreement or combination is not actionable.

(3) This section does not exempt from punishment any person guilty of a conspiracy for which a punishment is prescribed by law.

(4) This section does not affect the law relating to riot, unlawful assembly, breach of the peace or sedition or any offence against the State or the Sovereign.

(5) For the purposes of this section “**crime**” 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 to some other punishment.

(6) If a person is convicted of an agreement or combination as mentioned in subsection (1) to do or procure to be done an act which constitutes a crime and the person is sentenced to imprisonment, the imprisonment must not exceed 3 months or any longer time prescribed by law for the punishment of that act when committed by one person.

Liability for interfering with another’s business

26. An act done by a person in contemplation or furtherance of a trade dispute is not 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 or business or employment of some other person or with the right of some other person to dispose of the person’s property or labour as the person wills.

Intimidation and annoyance

27. It is an offence for a person, with a view to compel any other person to do or to abstain from doing any act which that other person has a legal right to do or to abstain from doing, wrongfully and without legal authority to—

- (a) use violence to or intimidate that other person or his or her spouse or parent or child or injure that person's property;
- (b) persistently follow that other person about from place to place;
- (c) hide any tools, clothes or property owned or used by that other person or deprive that person of, or hinder that person in, the use of them;
- (d) watch or beset the house or other place where that person resides or works or carries on business or happens to be, or the approach to such house or place; or
- (e) follow that person with 2 or more other persons in a disorderly manner in or through any street or road.

Penalty: A fine of £20 or imprisonment for 3 months, or both.

Peaceful picketing

28. It is lawful for one or more persons acting on their own behalf or on behalf of a trade union or of an 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 for the purpose only of peacefully obtaining or communicating information or of peacefully persuading any person to work or to abstain from working.

SCHEDULE (Section 20)

RULES OF REGISTERED TRADE UNIONS

- 1.** The name of the trade union.
- 2.** The whole of the objects for which the trade union is to be established, the rates of contribution by members, the purposes for which the funds of the trade union are to be applicable, the conditions under which any member becomes entitled to any benefit and the fines and forfeitures to be imposed on any member.
- 3.** The manner of making, altering, amending and rescinding rules.
- 4.** The appointment and removal of a general committee of management, of a treasurer and of other officers.
- 5.** The keeping of full and accurate accounts by the treasurer and the rendering of an account to the trade union not later than a certain day in each year.
- 6.** The investment of the funds or their deposit in a bank and the periodical audit of the accounts.
- 7.** The inspection of the books and of the names of members by every person having an interest in the funds.

8. The manner of dissolving the trade union and the disposal of the funds available at the time of dissolution.

9. The taking by secret ballot of all decisions in respect of the election of officers, amendment of the rules, strikes, dissolution and any other matter affecting the members generally.

TRADE UNIONS AND TRADE DISPUTES ORDINANCE, 1959

TRADE UNIONS REGULATIONS, 1959

(Section 23)

1. Citation
2. Definition
3. Application
4. Registration
5. Statement of trade, etc.
6. Certificate
7. Amendment
8. Refund of contribution
9. Fees

First Schedule: Forms

Second Schedule: Fees

Citation

1. These Regulations may be cited as the Trade Unions Regulations, 1959.

Definition

2. In these Regulations “**Form**” means one of the forms set out in the First Schedule.

Application

3. An application for registration of a trade union must be in Form A.

Registration

4. A certificate of registration of a trade union must be in Form B.

Statement of trade, etc.

5. For the purpose of enabling the Registrar to be satisfied that section 13 of the Ordinance has been complied with, an application for registration of a trade union must have annexed to it, in addition to the particulars prescribed in section 9 of the Ordinance, a statement of the trade, profession or occupation of every officer of the trade union.

Certificate

6. Within 14 days of the receipt of an application for registration the Registrar must either register the trade union and issue a certificate of registration, or return the application for any amendment the Registrar requires so that it will comply with the Ordinance and these Regulations.

Amendment

7. (1) If the application is returned for amendment as provided by regulation 5, the Registrar must fix a day by which the amended application is to be returned, and the period between the date of the original application and the 15th day after the day so fixed is to be excluded from the period of 3 months prescribed in section 8 of the Ordinance.

(2) Within 14 days of the receipt of an application purporting to be so amended, the Registrar must either register the trade union and issue a certificate of registration or refuse to register the trade union.

Refund of contribution

8. A requirement by the Registrar pursuant to section 22(1) of the Ordinance, that an extraordinary contribution must cease to be demanded by or on behalf of a trade union and that payments in respect of such a contribution must be refunded, must be notified to the trade union within 14 days of the receipt by the Registrar of the notification of such a contribution.

Fees

9. The fees prescribed in the Second Schedule are payable in respect of the several matters there listed.

FIRST SCHEDULE

(Regulation 2)

FORM A

(Regulation 3)

APPLICATION FOR THE REGISTRATION OF A TRADE UNION

- 1. This application is made by the 7 persons whose names are subscribed at the foot of it.
- 2. The name under which it is proposed that the trade union on behalf of which this application is made should be registered is, as set out in Rule No.

To the best of our belief there is no other existing trade union, whether registered or not registered, the name of which is identical with the proposed name or so nearly resembles the same as to cause confusion.

- 3. The place of meeting for the business of the trade union, and the office to which all communications and notices may be addressed, is at, as set out in Rule No.

4. The trade union was established on the day of, 20..... .
5. The whole of the objects for which the trade union is established and the purposes for which its funds are applicable are set out in Rule No.
6. The conditions under which members may become entitled to benefits assured are set out in Rule No.
7. The fines and forfeitures to be imposed on members are set out in Rule No.
8. The manner of making, altering, amending, and rescinding rules is set out in Rule No.
9. The provision for the appointment and removal of a general committee of management, a trustee or trustees, a treasurer, and other officers, is set out in Rule No.
10. The provision for the investment of funds and for the periodical audit of accounts is set out in Rule No.
11. The provision for the inspection of the books and names of the members by every person having an interest in the funds is set out in Rule No.
12. The provision for the manner of dissolving the trade union and the disposal of the funds available at the time of dissolution is set out in Rule No.
13. The provision for the keeping of full and accurate accounts by the treasurer and the rendering of an account to the trade union not later than a certain day in each year is set out in Rule No.
14. The provision for the taking by secret ballot of all decisions in respect of the election of officers, amendment of the rules, strikes, dissolution and any other matter affecting the members generally is set out in Rule No.
15. Accompanying this application are—
 - Two copies, each marked A, of the rules.
 - A list, marked B, of the titles and names of the officers.
16. We have been duly authorised by the trade union to make this application on its behalf, such authorisation consisting of

(Signed) 1.
 2.
 3.
 4.
 5.
 6.
 7.

this day of, 20..... .

Notes: - In paragraph 16, it must be stated whether the authority to make this application was given by a “resolution of a general meeting of the trade union”, or, if not, in what other way it

was given.

- *The two copies of the rules must be signed by the 7 members signing this application.*

- *The application should be dated, and forwarded to the Registrar of Trade Unions with the prescribed fee.*

FORM B
(Regulation 4)

CERTIFICATE OF REGISTRY OF A TRADE UNION

It is hereby certified that the has been registered under the Trade Unions and Disputes Ordinance, 1959 thisday of, 20..... .

Registrar of Trade Unions

SECOND SCHEDULE
(Regulation 9)

FEEES

1.	For the filing of an application for registration of a trade union	25p
2.	For a certificate of registration of a trade union	£1
3.	For inspection of the registers and documents kept by the Registrar, in respect of any one trade union	3p
4.	For the making of copies of registers and documents kept by the Registrar, for each folio or part thereof	5p
5.	For cancellation of the registration of a trade union at the request of the trade union	50p
6.	For registration of an alteration of the rules of a trade union, on any one occasion	25p
