

CHAPTER 174

TRADE UNIONS

Ordinances
Nos.14of1935,
3 of 1946,

Acts
Nos.15of1948,
18 of 1958,
24 of 1970.

AN ORDINANCE TO PROVIDE FOR THE REGISTRATION AND CONTROL OF TRADE UNIONS.

[1st November. 1935.]

PART I

PRELIMINARY

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

Interpretation. 2. In this Ordinance, unless the context otherwise requires—

" executive " means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted and includes the president, the secretary and the treasurer of any trade union;

" lock-out " means the closing of a place of employment or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

" officer " when used with reference to a trade union; includes any member of the executive thereof, but does not include an auditor;

" prescribed " means prescribed by regulations made under section 52 of this Ordinance ;

" register " means the register of trade unions maintained by the Registrar under section 7 ;

" registered office " means that office of a trade union which is registered under this Ordinance as the head office of the trade union;

" registered trade union " means a trade union registered under this Ordinance;

" Registrar " means the person for the time being appointed under section 3 by name or by office to be or to act as Registrar of Trade Unions, and includes any person appointed under section 4 to be or to act as an Assistant Registrar of Trade Unions;

" regulation " means a regulation made by the Minister under section 52 ;

" strike " means the cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding of any number of persons who are, or have been so employed, to continue to work or to accept employment;

" trade dispute " means any dispute or difference between employers and workmen, or between workmen and workmen 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 association or combination of workmen or employers, whether temporary or permanent, having among its objects one or more of the following objects:—

(a) the regulation of relations between workmen and employers, or between workmen and workmen or

between employers and anything done or omitted to be done by him in good faith. employers; or

(b) the imposing of restrictive conditions on the conduct of any trade or business; or

(c) the representation of either workmen or employers in trade disputes; or

(d) the promotion or organization or financing of strikes or lock-outs in any trade or industry or the provision of pay or other benefits for its members during a strike or lock-out,

and includes any federation of two or more trade unions ;

" workman " means any person who has entered into or works under a contract with an employer in any capacity, whether the contract is express or implied, oral or in writing, and whether it is a contract of service or of apprenticeship, or a contract personally to execute any work or labour and includes any person ordinarily employed under any such contract, whether such person is or is not in employment at any particular time.

PART II

APPOINTMENT OF REGISTRAR AND OTHER OFFICERS

Appointment of Registrar.

3. There may be appointed a Registrar of Trade Unions who shall be responsible for the due performance of the duties and functions assigned to him as Registrar under this Ordinance.

Appointment of Assistant Registrars and other officers.

4. There may be appointed one or more Assistant Registrars of Trade Unions and such other officers as may from time to time be required for the purposes of this Ordinance.

All officers deemed to be public servants.

5. All officers appointed under sections 3 and 4 of this Ordinance shall be deemed to be public servants within the meaning of the Penal Code.

Protection of public servants

6. No suit shall lie against any public servant acting under this Ordinance for

PART III

REGISTRATION

7. (1) The Registrar shall keep and maintain in such form as may be prescribed, a register of trade unions in which shall be registered the prescribed particulars relating to any registered trade union and any alteration or change, which may from time to time be effected in the name, rules, officers or executive thereof or in the situation of the registered office thereof; and all such other matters as may be required to be registered therein under this Ordinance. Register of trade unions.

(2) A certified copy of any entry in the register shall be conclusive proof of the facts specified therein as on the date of such certified copy.

8. (1) Every trade union established before the date of the commencement of this Ordinance shall apply to be registered under this Ordinance within a period of three months reckoned from that date. Necessity for registration.

(2) Every trade union established after the commencement of this Ordinance shall apply to be registered under this Ordinance within a period of three months reckoned from the date on which it was so established.

(3) The Registrar may, if he thinks fit, from time to time grant an extension of the periods respectively specified in subsections (1) and (2):

Provided that neither of such periods shall, in any particular case, be so extended as to exceed a period of six months in the aggregate.

(4) For the purposes of this Ordinance, a trade union is established on the first date on which any workmen or employers agree to become or to create an association or combination for the furtherance of any one or more of the objects specified in the definition of a trade union in section 2.

(5) For the purpose of prosecuting any trade union which fails to apply for registration in accordance with the provisions of this section, the date of

establishment of that trade union shall, in the absence of proof of the date referred to in subsection (4), be deemed to be —

- (a) the date on which any person is proved to have been accepted or admitted as a member of that trade union; or
- (b) the date on which any act is proved to have been done by that trade union in furtherance of any one or more of the objects specified in the definition of a trade union in section 2;

and, in a case where proof is available of both the dates referred to in paragraphs (a) and (b), the earlier of such dates shall be deemed so to be the date of the establishment of that trade union.

9. (1) Every application for registration of a trade union shall be made to the Registrar in the prescribed form and shall be signed by at least seven members of the union, any of whom may be officers thereof.

(2) Uncancelled stamps to the value of one rupee shall be affixed to every such application which shall be accompanied by a copy of the rules of the trade union and a statement of the following particulars, namely:—

- (a) the names, occupations and addresses of the members making the application;
- (b) the name of the trade union and the address of its head office ; and
- (c) the titles, names, ages, addresses and occupations of the officers of the trade union.

(3) A trade union established before the commencement of this Ordinance shall deliver to the Registrar, together with its application for registration, a general statement of the assets and liabilities of the trade union prepared in such form and containing such particulars as may be prescribed.

10. The Registrar, if he is satisfied that a trade union applying for registration has complied with the provisions of this Ordinance and of the regulations made thereunder and that the objects, rules and

constitution of the union do not conflict with any of such provisions and are not unlawful, shall register the trade union in the prescribed manner:

Provided that if any one of the objects of such trade union is unlawful, the registration of the trade union shall be void.

11. The Registrar, on registering a trade union under section 10, shall issue to the trade union a certificate of registration in the prescribed form and that certificate, unless proved to have been cancelled or withdrawn, shall be conclusive evidence for all purposes that the trade union has been duly registered under this Ordinance.

12. The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 9 or that the trade union is entitled to registration under this Ordinance.

13. If the name under which a trade union is proposed to be registered is identical with that by which any other existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive or mislead the public or the members of either trade union, the Registrar shall require the persons applying for registration to alter the name of the trade union stated in the application, and shall refuse to register the trade union until such alteration has been made.

14. The Registrar may refuse to register any trade union if he is not satisfied that the trade union has complied with the provisions of this Ordinance or of any regulations made thereunder, or if he is of opinion that any one of the objects or rules, or the constitution of the union is unlawful or conflicts with any such provision.

15. (1) A certificate of registration of a trade union may be withdrawn or cancelled by the Registrar -

- (a) at the request of the trade union upon its dissolution to be verified in such manner as the Registrar may require;

Certificate of registration

Power of Registrar to call for further information

Power of Registrar to require alteration of name.

Refusal of registration.

withdrawal or cancellation of registration.

Application for registration

Registration.

(b) if he is satisfied—

- (i) that the certificate of registration was obtained by fraud or mistake;
- (ii) that any one of the objects or rules of the trade union is unlawful;
- (iii) that the constitution of the trade union or of its executive is unlawful;
- (iv) that the trade union has wilfully and after notice from the Registrar contravened any provision of this Ordinance or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter, for which provision is required by section 38;
- (v) that the funds of the trade union are expended in an unlawful manner or on an unlawful object or on an object not authorized by the rules of the union;
- (vi) that the trade union has ceased to exist.

(2) Except in a case falling within subsection (1) (a), not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or to cancel its certificate of registration shall be given by the Registrar to a trade union before such certificate is withdrawn or cancelled.

(3) A trade union served with a notice under subsection (2) may, at any time within a period of two months reckoned from the date of such notice, show cause in writing against the proposal to withdraw or to cancel its certificate of registration, as the case may be; and, if such cause is shown, the Registrar may hold such enquiry as he may consider necessary in the circumstances.

(4) The Registrar may, after the expiration of the period of two months referred to in subsection (3), withdraw or cancel the certificate of registration of any trade union which has failed duly to show cause under that subsection, or which, having so shown cause, has failed to satisfy him that its certificate of registration should not be withdrawn or cancelled, as the case may be.

(5) An order made by the Registrar under this section withdrawing or cancelling the certificate of registration of any trade union shall be dated as of the date on which it was made and shall forthwith be served on the trade union affected thereby.

16. (1) Any person aggrieved by the refusal of the Registrar to register a trade union or by an order made by the Registrar under section 15, may appeal against such refusal or order by filing a petition of appeal in the District Court within a period of thirty days reckoned from the date of such refusal or order.

Appeal to District Court.

(2) Every petition of appeal under subsection (1) shall—

- (a) name the Registrar as respondent;
- (b) state the grounds of appeal and the date of the refusal or order against which the appeal is preferred ;
- (c) be signed by the appellant; and
- (d) be stamped with a stamp of one rupee.

(3) It shall be competent for the District Court in appeal—

- (a) to direct the appellant or the Registrar to furnish further information;
- (b) to hold an inquiry and to take and record such evidence as it may deem necessary;
- (c) to allow the appeal and to order the registration of the trade union or to reverse any order made by the Registrar under section 15 ;

- (d) to dismiss the appeal; or
- (e) to make such order as it shall consider just and to give such directions as it may consider necessary, including directions as to the costs of the appeal and the procedure to be observed at the hearing of the appeal.

(4) Save as is otherwise in this section provided, an appeal to the District Court against a refusal of the Registrar to register a trade union or against an order made by the Registrar under section 15 shall be deemed to be a civil action of the value of three hundred rupees for the purposes of the Stamp Ordinance,* and of the Civil Procedure Code.

(5) In this section, " District Court ", in the case of an appeal against the refusal of the Registrar to register a trade union, means the District Court having local jurisdiction over the place sought to be registered as the place of the head office of the trade union in the application for registration made under section 9; and, in the case of an appeal against an order made by the Registrar under section 15, means the District Court having local jurisdiction over the place where the registered office of the trade union affected by that order is situated.

Appeal to Court of Appeal.

17. An appeal shall lie to the Court of Appeal against an order made by a District Court under section 16 and the provisions of the Civil Procedure Code shall apply accordingly in all matters relating to or connected with such appeal.

Consequences of failure to register or of withdrawal or cancellation of registration.

18. If any trade union does not apply for registration in due time, or if the registration of any trade union is refused, withdrawn, or cancelled, then—

- (a) the trade union shall be deemed to be an unlawful association and shall cease to enjoy any of the rights, immunities, or privileges of a registered trade union, but without prejudice to any liabilities incurred or to be incurred by the trade union which may be enforced against the union and its assets ;

- (b) the trade union shall not, nor shall any of its officers or agents on behalf of the union, take part in any trade dispute or promote, organize or finance any strike or lock-out, or provide pay or other benefits for its members during a strike or lock-out;

- (c) the trade union shall be dissolved and its funds shall be disposed of in accordance with the rules of the union; and

- (d) no person shall, except for the purpose of defending proceedings against the union or dissolving the union and disposing of its funds in accordance with the rules, take any part in its management or organization, or act or purport to act on behalf of the union or as an officer of the union.

PART IV

SPECIAL PROVISIONS APPLICABLE To TRADE UNIONS OF PUBLIC OFFICERS

19. In this Part-

Interpretation of this Part.

- (a) " public officer " includes any person in the employment of the Government of Sri Lanka, whatsoever may be the terms or duration of his employment as such;

- (b) " trade union to which this Part applies " means any trade union of which public officers are members or membership of which is declared by the rules of the union to be open to public officers.

20. (1) For the resolution of doubts it is hereby declared that, save as otherwise provided in subsection (2), every association or combination of public officers having as its object or among its objects one or more

Declaration that certain associations of public officers are " trade unions " .

* See also the Stamp Duty Act, No. 43 of 1982.

of the objects specified in the definition of " trade union " in section 2, is a trade union for the purposes of this Ordinance ; and the provisions of this Ordinance shall, subject to the succeeding provisions of this Part, apply accordingly in the case of every such association or combination.

[§2, 24 of 1970.]

(2) An association or combination consisting of—

- (a) judicial officers;
- (b) members of the armed forces;
- (c) police officers;
- (d) prison officers ; or
- (e) members of any corps established under the Agricultural Corps Ordinance,

shall, notwithstanding anything in its objects, be deemed not to be a trade union, and nothing in this Ordinance shall apply to, or in relation to, any such association or combination.

In this subsection—

- (a) "judicial officer" means a judicial officer, within the meaning of Article 170 of the Constitution;
- (b) " armed forces" means the Sri Lanka Army, the Sri Lanka Navy and the Sri Lanka Air Force ;
- (c) " police officer " means a member of the police force established under the Police Ordinance; and
- (d) " prison officer" has the same meaning as in the Prisons Ordinance but does not include any medical officer or apothecary for the time being on the staff of any prison.

Restriction as to registration of unions to which this Part applies. [§3, 24 of 1970.]

21. (1) The Registrar shall not register any trade union to which this Part applies unless the rules of the union contain the following provisions, that is to say :—

(a) a provision restricting the eligibility for membership of the union or for any office whatsoever (whether paid or honorary, including that of patron) solely to public officers who are employed in any one specified department of Government or in any one specified service of the Government, or who, having regard to the nature of the work upon which they are engaged are of any specified class or category of public officers though employed in different departments of Government, provided however that such provision may permit two persons from outside the department or the class or category of public officers, as the case may be, to be elected at an annual general meeting of the union to be members or to hold office, one of such two persons being the president or the secretary of the union, and the other being a member of the union; and

(b) in the case of a union of peace officers or Government staff officers, in addition to the provision referred to in paragraph (a)—

- (i) a provision declaring that the union shall not be affiliated to or amalgamated or federated with any other trade union whether of public officers or otherwise; and
- (ii) a provision declaring that the union shall not have any political objects or political fund within" the meaning of section 47 of this Ordinance.

In this subsection and in section 23—

- (a) " peace officer " shall have the same meaning as in the Code of Criminal Procedure Act, and
- (b) " Government staff officer" shall mean a Government officer who holds an office the initial of the salary scale of which is not below five hundred and sixty rupees per month.

(2) The powers of the Registrar under section 14 shall include the power to refuse to register any trade union to which this Part applies on the ground that the rules of the union do not contain the provisions or any of the provisions specified in subsection (1), or that any such provision contained in any rule is being contravened with the knowledge, consent or connivance of any officer of the union; and an appeal under section 16 shall lie in any case where the Registrar refuses to register a trade union on any ground hereinbefore mentioned.

payable in respect of any application under this section or of any proceedings upon any such application or of any document filed in the course thereof.

(6) The provisions of this section shall not be deemed or construed to prejudice any power of the Registrar to withdraw or cancel the certificate of registration of any trade union on any ground not referred to in subsection (1) of this section.

Cancellation of registration of union to which this Part applies. [§4.24 of 1970.]

22. (1) The District Court of Colombo, on application made to the court in that behalf by the Attorney-General, may make order directing the Registrar to withdraw or cancel the certificate of registration of any registered trade union to which this Part applies, if the court is satisfied that the rules of the union for the time being in force do not contain any of the provisions required by subsection (1) of section 21 or that any such required provision which is contained in any rule of the union has been contravened with the knowledge, consent or connivance of any officer of the union.

23. (1) The provisions of section 32 shall not apply to any trade union to which this Part applies.

Certain provisions of this Ordinance not to apply to certain trade unions. [§5.24 of 1970.]

(2) The provisions of sections 34 and 47 shall not apply to any trade union of peace officers or Government staff officers.

24. Save as otherwise expressly provided, the provisions of this Part shall be in addition and without prejudice to the other provisions of this Ordinance :

Saving for operation of other provisions of this Ordinance.

Provided that in the event of any conflict or inconsistency between any provision of this Part and any other provision of this Ordinance, the former provision shall prevail.

(2) Every application under subsection (1) in respect of any trade union shall—

- (a) name the union as respondent;
(b) state the grounds on which the application is made; and
(c) be signed by the Attorney-General, or by the Solicitor-General on his behalf.

(3) Upon any application being made to the District Court under subsection (1), the court shall hold an inquiry and take and record such evidence as it may deem necessary, and for the purposes of such inquiry shall have and may exercise all the powers of a District Court in a civil action.

(4) The order of the District Court upon any application under this section shall be deemed to be an order made by the court under section 16 and the provisions of section 17 shall apply accordingly.

(5) Notwithstanding anything in any other written law, no stamp duty shall be

PART V

RIGHTS AND LIABILITIES OF TRADE UNIONS

25. A trade union shall not enjoy any of the rights, immunities or privileges of a registered trade union until it is registered.

Disabilities of unregistered union.

26. No action or other legal proceeding shall be maintainable in any civil court against any registered trade union or any officer or member thereof in respect of any act done in contemplation or in furtherance of a trade dispute to which a member of the trade union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in 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 of his labour as he wills.

Immunity from civil action in certain cases.

27. An action against a trade union or against any members or officers thereof on behalf of themselves and all other members of the trade union in respect of any tortious

Trade union not liable for tortious act.

act alleged to have been committed by or on behalf of the trade union in contemplation or in furtherance of a trade dispute shall not be entertained by any court.

PART VI

CONSTITUTION

Liability in contract.

28. Every trade union shall be liable on any contract entered into by it or by an agent acting on its behalf:

Provided that a trade union shall not be so liable on any contract which is void or unenforceable at law.

Objects in restraint of trade not unlawful in case of registered trade union.

29. The objects of a registered trade union shall not, by reason only 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 or to render void or voidable any agreement or trust.

Proceedings by and against trade unions.

30. (1) A registered trade union may sue and be sued and be prosecuted under its registered name.

(2) An unregistered trade union may be sued and prosecuted under the name by which it has been operating or is generally known.

(3) A trade union whose registration has been cancelled or withdrawn may be sued and prosecuted under the name by which it was registered.

(4) Execution for any money recovered from a trade union in civil proceedings may issue against any property belonging to or held in trust for the trade union other than the benevolent fund of a registered trade union.

(5) Any fine ordered to be paid by a trade union may be recovered by distress and sale of any movable property belonging to or held in trust for the trade union in accordance with the provisions of the Code of Criminal Procedure Act.

(6) It shall be competent for a registered trade union to file a proxy in any court or in any civil or other judicial proceedings provided that the proxy is signed by at least two of the trustees of that registered trade union.

Membership of minors-

31. A person under the age of twenty-one, but above the age of sixteen, may be a member of a registered trade union, unless provision be 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, and execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the executive or a trustee of a registered trade union.

Officers of trade union.

32. (1) Not less than one-half of the total number of the officers of every registered trade union shall be persons actually engaged or employed in an industry or occupation with which the trade union is connected.

(2) The Minister may, by special or general Order published in the Gazette, declare that the provisions of this section shall not apply to any registered trade union or class of registered trade unions specified in the Order.

Change of name

33. Any registered trade union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 35, change its name.

Amalgamation.

34. Any two or more registered trade unions may become amalgamated together as one trade union with or without dissolution or division of the funds of such trade unions or either or any of them:

Provided that the votes of at least one-half of the members of each or every such trade union entitled to vote are recorded, and that at least sixty *per centum* of the votes recorded are in favour of the proposal.

Notice of change of name or amalgamation.

35. (1) Notice in writing shall be given to the Registrar of every change of name and of every amalgamation, signed, in the case of a change of name, by the secretary and by seven members of the trade union changing its name, and, in the case of an

amalgamation, by the secretary and by seven members of each and every trade union which is a party thereto.

(2) If the proposed name is identical with that by which any other existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either trade union, the Registrar shall refuse to register the change of name.

(3) Save as is provided in subsection (2), the Registrar shall, if he is satisfied that the provisions of this Ordinance in respect of change of name have been complied with, register the change of name in the prescribed manner, and the change of name shall have effect from the date of such registration.

(4) If the Registrar is satisfied that the provisions of this Ordinance in respect of amalgamation have been complied with and that the trade union formed thereby is entitled to registration under section 10, he shall register the trade union in the prescribed manner and the amalgamation shall have effect from the date of such registration.

(5) Any person aggrieved by the refusal of the Registrar to register either a change of the name of a registered trade union or the trade union formed by the amalgamation of any two or more registered trade unions, may appeal against such refusal by filing a petition of appeal in the District Court within a period of thirty days reckoned from the date of such refusal.

(6) Every petition of appeal under subsection (5) shall-

- (a) name the Registrar as respondent;
- (b) state the grounds of appeal and the date of the refusal against which the appeal is preferred;
- (c) be signed by the appellant; and

(d) be stamped with a stamp of one rupee.

(7) It shall be competent for the District Court in an appeal under subsection (5)—

- (a) to direct the appellant or the Registrar to furnish further information;
- (b) to hold an inquiry and to take and record such evidence as it may deem necessary;
- (c) to allow the appeal and reverse the order made by the Registrar;
- (d) to dismiss the appeal; or
- (e) to make such order as it shall consider just and to give such directions as it may consider necessary, including directions as to the costs of the appeal and the procedure to be observed at the hearing of the appeal.

(8) Save as is otherwise in subsection (6) provided, an appeal to the District Court under subsection (5) shall for the purposes of the Stamp Ordinance * and of the Civil Procedure Code, be deemed to be a civil action of the value of three hundred rupees.

(9) In this section, " District Court ", in the case of an appeal against the refusal of the Registrar to register a change of the name of a registered trade union, means the District Court having local jurisdiction over the place where the registered office of that trade union is situated ; and, in the case of a refusal by the Registrar to register a trade union formed by the amalgamation of two or more registered trade unions, " District Court" means the District Court having jurisdiction over the place sought to be

the trade union formed as a result of such amalgamation.

(10) An appeal shall lie to the Court of Appeal against an order made by the District Court under subsection (7), and the provisions of the Civil Procedure Code shall apply accordingly in all matters relating to or connected with such appeal.

* See also the Stamp Duty Act, No. 43 of 1982.

Effect of change of name or amalgamation.

36. (1) A change in the name of a registered trade union shall not affect any rights or obligations of that trade union or render defective any legal proceeding by or against the trade union, and any legal proceeding which might have been continued or commenced by or against it under its former name may be continued or commenced by or against it under its new name.

(2) An amalgamation of two or more registered trade unions shall not prejudice any right of either or any such trade unions or any right of a creditor of either or any of them.

Registered office.

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

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

(3) Every trade union which—

(a) operates without having a registered office, or without giving notice of the situation of its registered office as hereinbefore required ; or

(b) operates at any place to which its registered office may have been removed, without having given notice of the change in the situation thereof to the Registrar,

shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding ten rupees for every day during which it is so in operation; and every officer of any such trade union shall be liable to be convicted and fined a like amount in respect of the same offence.

Rules.

38. (1) The rules of every registered trade union shall provide for all the matters specified in the First Schedule.

(2) A copy of the rules for the time being in force of any registered trade union shall be prominently exhibited at the registered office thereof and shall be furnished by the secretary of such trade union to any person on demand on payment of a sum not exceeding fifty cents.

(3) A copy of every new rule and of every alteration made in the rules of a registered trade union shall be sent to the Registrar within seven days of the making of such rule or alteration and shall be registered by the Registrar on payment of the prescribed fee.

(4) The rules of a trade union may be [§2,18 of made in Sinhala, or Tamil, or English. 1958.]

39. Notice of all changes of officers or of the title of any officer shall be prominently exhibited in the registered office of every registered trade union, and shall, within seven days after the change, be sent to the Registrar by such trade union together with the prescribed fee, and the Registrar shall thereupon correct the register accordingly.

Notice of change of officers, &c.

40. When a registered trade union is dissolved, notice of the dissolution signed by seven members and by the secretary of the trade union shall, within fourteen days of the dissolution, be sent to the Registrar and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the trade union; and the dissolution shall have effect from the date of such registration.

Notice of dissolution.

41. (1) The rules of a trade union shall provide for the appointment or election of trustees and for the filling of vacancies in the office of trustee so that, as far as may be, there shall always be at least three trustees of the union.

Trustees.

(2) Any officer or member of a registered trade union may be a trustee thereof.

PART VII

PROPERTY

All property vested in trustees.

42. All property, movable or immovable, of a registered trade union shall be vested in its trustees for the use and benefit of the union and its members and shall be under the control of the trustees.

Devolution of property.

43. Upon any change in the office of the trustee, the property of a registered trade union shall vest in the trustee or trustees for the time being of the union for the same estate and interest as the former trustee had therein, and subject to the same trusts, without any conveyance or assignment.

Purchase or lease of land or buildings.

44. Subject to any provision in its rules, it shall be lawful for a registered trade union to purchase or to take upon lease for the purposes of the union and in the names of its trustees any land not exceeding one acre in extent or any buildings and, subject to any written or other law which may be applicable, to sell, exchange, hypothecate or lease any such land or building which may be so purchased.

(2) The political objects referred to in subsection (1) are—

- (a) the payment of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election as a Member of Parliament or to any public office, before, during, or after the election, in connexion with his candidature or election; or
- (b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or
- (c) the maintenance of any person who is a Member of Parliament or who holds a public office ; or
- (d) the compilation or revision of any register of electors, the registration of electors, or the selection of a candidate for election as a Member of Parliament or for any public office; or
- (e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

PART VIII

FUNDS AND ACCOUNTS

Application of funds.

45. The funds of a registered trade union may, subject to the rules thereof and to the provisions of this Ordinance, be applied for any lawful object for which that trade union has been established.

Purposes for which the funds of a union shall not be applied.

46. The funds of a registered trade union shall not be applied either directly or indirectly in payment of the whole or part of any fine or penalty imposed upon any person by sentence or order of a Court of Justice.

Political objects and political fund

47. (1) A registered trade union may constitute a separate fund, hereinafter in this Ordinance called " the political fund ", from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects, hereinafter in this Ordinance called " political objects " specified in subsection (2).

In this subsection, " public office " means the office of any member of any Municipal Council, Urban Council, Town Council, Village Council or any other local authority constituted by or under any written law and which has or may have the power to raise money, either directly or indirectly, by means of the imposition or levy of any tax, rate or fee.

(3) No political fund shall be created by any registered trade union unless a resolution in favour of the creation of a political fund is passed by a majority of the members of the union present and voting at a general meeting specially convened for the purpose. The voting at a general meeting so convened shall be by ballot held in the prescribed manner.

(4) No payment in furtherance of any political object shall be made by any registered trade union except out of the political fund of that union.

(5) No member of a registered trade union shall be liable to contribute to the political fund of that union unless he has signed and delivered at the registered office thereof a notice substantially in the form I in the Second Schedule of his willingness to contribute to that fund and has not withdrawn such notice by signing and delivering at the registered office of the union a notice substantially in the form II in that Schedule.

(6) A notice under subsection (5) may be delivered personally or by an agent or servant, and shall be deemed to have been duly delivered if it is sent by registered post addressed to the secretary of the registered trade union at its registered office.

(7) No member shall be compelled or required to make a contribution to the political fund unless he is liable for such contribution.

(8) Where a member of a registered trade union is liable to contribute to the political fund of that union, every demand made to that member for a contribution to the funds of the union shall specify separately the amount, if any, demanded from him as a contribution to the political fund ; and every receipt issued to any member of a registered trade union for any contribution made by that member to the funds of that union shall specify separately what sum, if any, out of the total amount of such contribution was received from that member on account of the political fund.

(9) No assets of a trade union, other than the contributions of members liable to contribute to the political fund and voluntary contributions to the political fund received from non-members, shall be credited to the political fund ; and no assets of a trade union not forming part of the political fund shall be directly or indirectly applied in furtherance of any political object.

(10) A member of a registered trade union who does not contribute to the political fund thereof shall not be expelled therefrom nor be excluded from any benefits of that trade union nor be placed in any respect either directly or indirectly

under any disability or at any disadvantage as compared with other members of that trade union (except in relation to the control or management of the political fund) by reason of his not contributing to that fund; and a contribution to the political fund shall not be made a condition for admission to the trade union.

48. An injunction restraining any unauthorized or unlawful expenditure of the funds of a registered trade union may be granted on the application of any person having a sufficient interest in the relief sought, or of the Attorney-General.

Injunction to restrain unauthorized or unlawful expenditure of funds.

49. (1) Every treasurer of a registered trade union and every other officer thereof who is responsible for the accounts of the union or for the collection, disbursement, custody or control of the funds or moneys thereof, shall, upon resigning or vacating his office and at least once in every year at such time as may be specified by the rules of the union and at any other times at which he may be required to do so by a resolution of the members of the union or by the rules thereof, render to the union and its members a just and true account of all moneys received and paid by him during the period which has elapsed since the date of his assuming office, or if he has previously rendered an account, since the last date upon which he rendered such account, and of the balance remaining in his hands, at the time of rendering such account and of all bonds, securities, or other property of the trade union entrusted to his custody or under his control.

Treasurer to render accounts.

(2) The form of account may be prescribed by regulation.

(3) The account shall be verified by affidavit, and the union shall cause the account to be audited by some fit and proper person approved by the Registrar.

(4) After the account has been audited, the treasurer or other officer referred to in subsection (1) shall forthwith hand over to the trustees of the union, if required by them to do so, such balance as appears to be due from him, and also, if so required, all bonds, securities, effects, books, papers, and property of the union in his hands or custody, or otherwise under his control.

Annual returns.

50. (1) The secretary of every registered trade union shall furnish annually to the Registrar on or before the prescribed date in each and every year a general statement audited in the prescribed manner, of all receipts and expenditure during the period of twelve months ending on the thirty-first day of March next preceding such prescribed date, and of the assets and liabilities of the trade union as at such thirty-first day of March. The statement shall be accompanied by a copy of the auditor's report and shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement referred to in subsection (1), the secretary of each registered trade union shall furnish to the Registrar a copy of all alterations or amendments of rules, and of all new rules, and a list of all changes of officers, made by the union during the period of twelve months preceding the said thirty-first day of March, and a copy of the rules of the trade union in force on that day.

(3) In the case of a registered trade union which was established before the commencement of this Ordinance, it shall be lawful for the Registrar, on application made to him in that behalf, by writing under his hand to substitute the day on which the financial year of that trade union ends for the thirty-first day of March mentioned in subsections (1) and (2) and, if necessary, some other date for the date prescribed for the purposes of subsection (1); and all the provisions of this section shall thereupon apply accordingly in the case of that registered trade union as though the date and the day so substituted were respectively the date referred to in subsection (1) and the day referred to in subsections (1) and (2).

(4) Every member of a registered trade union shall be entitled to receive free of charge a copy of the general statement referred to in subsection (1) and the secretary of each registered trade union shall deliver a copy of such statement to every member of his union who makes application to him therefor.

(5) Any secretary of a registered trade union who fails to comply with any of the

requirements of this section shall be guilty of an offence, and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding one hundred rupees.

(6) Every person who wilfully makes or orders or causes or procures to be made any false entry in or omission from any general statement, copy or list delivered to the Registrar under subsections (1) and (2) shall be guilty of an offence and shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

51. The account books of a registered trade union and a list of the members thereof shall be open to inspection by any officer or member of the trade union at such times as may be provided for in the rules of the trade union.

Inspection of accounts and documents.

PART IX

REGULATIONS

52. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

Regulations

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters :—

- (a) all matters stated or required in this Ordinance to be prescribed ;
- (b) the books and registers to be kept for the purposes of this Ordinance and the forms thereof;
- (c) the manner in which trade unions and the rules of the trade unions shall be registered and the fees payable on registration;
- (d) the manner in which, and the qualifications of persons by whom, the accounts of registered trade unions or of any class of such unions shall be audited ;

- (e) the conditions subject to which inspection of documents kept by the Registrar shall be allowed and the fees which shall be chargeable in respect of such inspections ;
- (f) the due disposal and safe custody of the funds and moneys of a trade union;
- (g) the creation, administration, protection, control and disposal of the benevolent funds of registered trade unions and all matters connected therewith or incidental thereto; and
- (h) generally for all matters incidental to or connected with the matters or subjects specifically mentioned in this subsection.

(3) The Minister may by regulation declare that any regulation made under paragraph (g) of subsection (2) shall apply to a specified trade union only or that any particular trade union or class of trade union shall be exempt from the operation of any regulation made under that paragraph of that subsection.

Approval of regulations.

53. (1) No regulation made under section 52 shall have effect unless it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(2) Every regulation made by the Minister shall upon publication of a notification of the approval of that regulation as provided for in subsection (1), be as valid and effectual as if it were herein enacted.

PART X

OFFENCES AND PENALTIES

Penalty for misuse of money or property of a registered trade union.

54. (1) Where, on complaint made by a member of a registered trade union, it is shown to the satisfaction of a Magistrate that any officer or member of that union has in his possession or control any property of the union except in accordance with the rules of the union, or has

unlawfully expended or withheld any money of the union, the Magistrate shall, if he considers the justice of the case so requires, order such officer or member to deliver all such property to the trustees of the union and to pay to them the money so unlawfully expended or withheld.

(2) A complaint made under subsection (1) shall not be entertained unless the Magistrate is satisfied that the complainant is, on the date of that complaint, a member of the registered trade union in respect of the property of which such complaint is so made.

(3) Any person bound by an order made under subsection (1) who fails to comply with the terms thereof and the directions given therein within a time to be specified in such order shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding five hundred rupees.

(4) An order under subsection (1) shall not affect or prevent a prosecution of, or civil proceedings against, any such officer or member.

55. Any person who, with intent to deceive, gives to any member of a registered trade union or to any person intending or applying to become a member of such trade union any document purporting to be a copy of the rules of the trade union or of any alterations thereto which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of an unregistered trade union to any person on the pretence that such rules are the rules of a registered trade union, shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for any period not exceeding three months, or to both such fine and imprisonment.

Supplying false information regarding trade unions.

56. If default is made on the part of any registered trade union in doing any act, in giving any notice, or in sending any statement, return or other document as required by this Ordinance or by the regulations made thereunder, every officer or other person bound by the rules of the trade union or under the provisions of this

Penalty for failure to comply with requirements of this Ordinance in regard to returns, &c.

PART XI

MISCELLANEOUS

Ordinance or the regulations made thereunder to do such act, or to give such notice, or to send such statement, return or document, or, if there is no such officer or person, every member of the executive of that registered trade union shall severally be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding fifty rupees.

General penalty,

57. (1) Every person who, and every trade union which, contravenes any provision of this Ordinance or any regulation made thereunder shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding one hundred rupees unless some other punishment is provided for such offence by this Ordinance.

(2) Upon conviction of an unregistered trade union under subsection (1), every person proved to have been a member of the executive of that trade union at any time after the commencement of this Ordinance shall be deemed severally to be guilty of the offence for which the trade union was so convicted and the Magistrate shall, after necessary enquiry, declare in his judgment and verdict the name of each person so deemed to be guilty and shall pass sentence upon him according to law.

Limitation of prosecutions.

58. No prosecution shall be instituted under this Ordinance except by, or at the instance of, or with the written consent of, the Attorney-General.

Saving of offences under other written law.

59. The offences and penalties specifically defined and provided in this Ordinance are in addition to and not in substitution of those defined and provided in any other written law.

60. This Ordinance shall not affect—
 (a) any agreement between partners as to their own business ; or
 (b) any agreement between an employer and those employed by him as to such employment; or
 (c) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

Ordinance not to affect certain agreements.

61. The following enactments, namely:-

Certain Ordinances not to apply to trade unions.

- (a) the Companies Ordinance*,
- (b) the Societies Ordinance,
- (c) the Business Names Ordinance, and
- (d) the Co-operative Societies Law,

shall not apply to any trade union; and the registration of any trade union under any of those enactments shall be void.

Limitation of prosecutions.

62. Every summons, notice or other document required to be served on a trade union in any civil or criminal proceeding shall be deemed to be duly served if it is delivered at the registered office of the trade union or if it is served personally on the president or the treasurer or the secretary or on any officer of the trade union provided that such service is otherwise in compliance with the requirements of written law.

Service of legal process.

FIRST SCHEDULE

[Section 38.]

MATTERS FOR WHICH PROVISION MUST BE MADE IN THE RULES OF EVERY REGISTERED TRADE UNION

1. The name of the trade union and the 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 thereof may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member thereof.
3. The manner of making, altering, amending, and rescinding rules.

• Repealed and replaced by the Companies Act, No. 17 of 1982.

- 4. The appointment or election and removal of an executive and of trustees, secretaries, treasurers, and other officers, of the trade union.
- 5. The custody and investment of the funds of the trade union, the designation of the officer or officers responsible therefor, and the annual or periodical audit of its accounts.
- 6. The inspection of the books and names of members of the trade union by any person having an interest in the funds of the trade union.
- 7. The manner of the dissolution of the trade union and the disposal of the funds thereof available at the time of such dissolution.

SECOND SCHEDULE

Form I

FORM OF POLITICAL FUND CONTRIBUTION NOTICE

POLITICAL FUND CONTRIBUTION NOTICE

[Section 47(5).]

Name of Trade Union:.

I,..... hereby give notice that I am willing, and agree, to contribute to the political fund of the above Trade Union; and I understand that I shall, in consequence, be liable to contribute to that fund, and shall continue to be so liable, unless I deliver at the office of the Union a written notice of withdrawal.

(Signed) A. B.

Address :.....

Date of delivery:.....

Membership number (if any):.

Form II

FORM OF WITHDRAWAL OF POLITICAL FUND CONTRIBUTION NOTICE

WITHDRAWAL OF POLITICAL FUND CONTRIBUTION NOTICE

Name of Trade Union :.....

I,..... hereby give notice that I withdraw the political fund contribution notice delivered by me at the registered office of the above Trade Union, signifying my willingness to contribute to the political fund of that Union; and I understand that from the date of delivery of this notice at the registered office of the Union I shall not be liable to contribute to the political fund of the Union, unless I deliver at the registered office of the Union a further contribution notice.

(Signed) A. B.

Address:.....

Date of delivery:.....

Membership number (if any): .