



ST. HELENA

CHAPTER 119

TRADE UNIONS AND DISPUTES ORDINANCE

and Subsidiary Legislation

Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email pa.lawofficers@legalandlands.gov.sh]¹

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

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¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

CHAPTER 119**TRADE UNIONS AND DISPUTES ORDINANCE**

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CHAPTER 119

TRADE UNIONS AND DISPUTES ORDINANCE

(Ordinances 3 of 1959 and 12 of 2017)

AN ORDINANCE TO REGULATE TRADE UNIONS AND TRADE DISPUTES.

Commencement

[23 July 1959]

PART I
PRELIMINARY**Short title and application**

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

Interpretation

2. In this Ordinance—
- “**registered**” means registered under this Ordinance;
- “**registrar**” means the Registrar of Trade Unions appointed in accordance with 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:
- Provided that nothing in this Ordinance shall affect—
- (a) any agreement between parties as to their own business;
 - (b) any agreement between an employer and a person or persons employed by him as 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 shall not by reason merely that they are in restraint of trade be deemed to be unlawful so as to render any member of the trade union liable to criminal prosecution for conspiracy or otherwise.

Trade union not unlawful for civil purposes

4. The purposes of a trade union shall not by reason merely that they are in restraint of trade be 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 thereof shall perform any act in furtherance of the purposes for which it shall have been formed unless it has first been registered.

(2) Any trade union and any officer or member thereof who contravenes the provisions of this section shall be guilty of an offence punishable with a fine not exceeding £25.

Registrar of trade unions

6. The Governor may appoint such person as he may think fit to be Registrar and if no such appointment be made the Chief Secretary shall be Registrar.

Who may apply for registration

7. Any seven or more members of a trade union who have been duly authorized by the trade union in that behalf 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:

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

Compulsory registration

8. (1) Every trade union shall be registered in accordance with the provisions of this Ordinance or be dissolved within three 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,

whichever is the later date.

(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 £5 for every day that it remains unregistered after the expiration of the said period.

Provisions applicable to registration

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

(a) an application to register the trade union shall 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 the provisions of this Ordinance and of any regulations made thereunder respecting registration shall subject to the provisions of section 10 register the trade union;

- (c) no trade union shall 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 shall 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 authorized to apply for registration; or
- (b) the purposes of the trade union are unlawful; or
- (c) the trade union is an organization 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 thereunder,

he may refuse registration.

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

(3) An appeal shall lie to the Supreme Court from a refusal of the Registrar to register a trade union. On such appeal the Supreme Court may make such order as it may think proper including any directions as to the costs of the appeal and any such order of the Supreme Court shall be final.

(4) The Chief Justice may make rules governing such appeals, providing for the method of giving evidence and prescribing the time within which such appeals shall 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 shall be entitled to be heard on any appeal.

Cancellation of registration

11. (1) It shall be lawful for the Registrar to cancel the registration of a 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 the trade union has wilfully and after notice from him violated any of the provisions of this Ordinance, provided that not less than sixty days' notice stating the grounds of the proposed cancellation shall be given by the Registrar to the trade union before the cancellation is effected;
- (c) on proof to his satisfaction that the trade union has ceased to exist.

(2) An appeal from a decision of the Registrar under this section shall lie to the Supreme Court subject to the same conditions as are provided 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. The decision of the Supreme Court upon such an appeal shall be final.

Age of members and officers of trade unions

12. A person under the age of fifteen shall not be a member, a person under the age of eighteen shall not be entitled to vote at a meeting, and a person under the age of twenty-one shall not be an officer, of a registered trade union.

Officers of trade unions

13. Not less than two-thirds of the officers of every registered trade union shall 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 shall be expended only in accordance with the rules thereof and with the provisions of this Ordinance, provided that they shall 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 the accounts of the trade union;
- (c) the prosecution or defence of any legal proceeding to which the trade union or any member thereof is a party when 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 employer or with a person whom the member employs;
- (d) the conduct of trade disputes on behalf of the trade union or any member thereof;
- (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 shall 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 shall 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 treasurer of a registered trade union and every other officer thereof who is responsible for the accounts thereof 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 in the rules of the trade union and at any other times at which he may be required so to do by a resolution of the members of the trade

union or by the rules thereof, render to the trade union a just and true account of all moneys received and paid by him during the period which shall have elapsed since the date of his assuming office, or if he shall have previously so done since the last date upon which he shall have so done, and of the balance remaining in his hands at the time of rendering such account and of all bonds securities and other property of the trade union in his custody or control.

(2) Such account shall be audited by some fit and proper person approved by the Registrar within three months of the date upon which it shall have been rendered to the trade union.

(3) When such account has been audited the treasurer or other officer as aforesaid shall if required by the trade union so to do forthwith hand over to the trade union the balance which shall appear to be due from him together with all bonds securities and other property of the trade union in his custody or control.

Audited accounts to be sent to Registrar

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

(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 £25.

Inspection of accounts, etc

19. 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 time as may be prescribed in the rules of the trade union and 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 shall have effect—

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

Alteration of rules of trade unions

21. (1) Every alteration of the rules of a registered trade union shall be registered with the Registrar and shall take effect on the date of their registration or such later date as may be prescribed 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 prescribed in the Schedule.

Extraordinary contributions

22. (1) No member of a trade union shall be required 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 such extraordinary contribution shall have been notified to the Registrar, and if the Registrar is not satisfied that such contribution has been duly sanctioned by the trade union and 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 he may require that such extraordinary contribution shall forthwith cease to be demanded and that any payment in respect of such extraordinary contribution shall be refunded.

(2) Every person who fails to comply with the provisions of this section or of a requirement of the Registrar as aforesaid shall be guilty of an offence and shall on conviction be punishable with a fine not exceeding £25.

Powers of Governor in Council to make regulations

23. The Governor in Council may make Regulations with respect to registration under this Ordinance and in particular and without prejudice to the generality of the foregoing 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 therein;
- (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 of this Ordinance 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 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 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 two 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 where 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 two or more persons in contemplation or furtherance of a trade dispute shall not be actionable where the act if done without such agreement or combination is not actionable.

(3) Nothing in this section shall exempt from punishment any person guilty of a conspiracy for which a punishment is prescribed by law.

(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) “**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 to some other punishment.

(6) Where a person is convicted of any such agreement or combination as aforesaid to do or procure to be done an act which is punishable on summary conviction and he is sentenced to imprisonment the imprisonment shall not exceed three months or such longer time as may be prescribed by law for the punishment of the said 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 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 or business or employment of some other person or with the right of some other person to dispose of his property or his labour as he wills.

Intimidation and annoyance

27.² Every person who, with a view to compel any other person to do or to abstain from doing any act which such other person has a legal right to do or to abstain from doing, wrongfully and without legal authority—

- (a) uses violence to or intimidates such other person or his or her spouse or parent or child or injures his property; or
- (b) persistently follows such other person about from place to place; or
- (c) hides any tools, clothes or 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 carries on business or happens to be or the approach to such house or place; or
- (e) follows such other person with two 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 £20 or with imprisonment for a term not exceeding three months.

Peaceful picketing

28. It shall be 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)

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 shall be

² Section 27 amended by Ord. 12 of 2017

applicable, the conditions under which any member shall become 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 REGULATIONS

(Legal Notice 13 of 1959)

- 1. These regulations may be cited as the Trade Unions Regulations.
- 2. In these regulations unless the context otherwise requires—
“Form” means one of the forms set out in the Schedule to these regulations.
“Ordinance” means, the Trade Unions and Disputes Ordinance.
- 3. An application for registration of a trade union shall be in Form A.
- 4. A certificate of registration of a trade union shall be in Form B.
- 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 shall have annexed thereto, 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.
- 6. Within fourteen days of the receipt of an application for registration the Registrar shall either register the trade union and issue a certificate of registration, or shall return the application for such amendment as he may require in order that it may comply with the Ordinance and these regulations.
- 7. If the application is returned for amendment as provided in regulation 5, the Registrar shall fix a day by which the amended application is to be returned to him, and the period between the date of the original application and the fifteenth day after the day so fixed shall be deemed to be excluded from the period of three months prescribed in section 8 of the Ordinance. Within fourteen days of the receipt of an application purporting to be so amended, the Registrar shall register the trade union and issue a certificate of registration or shall refuse to register the trade union.
- 8. A requirement by the Registrar in pursuance of section 22(1) of the Ordinance, that an extraordinary contribution shall cease to be demanded by or on behalf of a trade union and that payments in respect of such a contribution shall be refunded, shall be notified to the trade union within fourteen days of the receipt by the Registrar of the notification to him of such a contribution.
- 9. The fees prescribed in the Second Schedule to these regulations shall be charged in respect of the several matters there set forth.

FIRST SCHEDULE

FORM A

APPLICATION FOR THE REGISTRATION OF A TRADE UNION

This application is made by the seven persons whose names are subscribed at the foot hereof.

2. The name under which it is proposed that the trade union on behalf of which this application is made shall be registered is, as set forth 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 forth 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 the funds thereof are applicable are set forth in Rule No.

6. The conditions under which members may become entitled to benefits assured are set forth in Rule No.

7. The fines and forfeitures to be imposed on members are set forth in Rule No.

8. The manner of making, altering, amending, and rescinding rules is set forth 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 forth in Rule No.

10. The provision for the investment of funds and for the periodical audit of accounts is set forth 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 forth 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 forth 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 forth 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 forth in Rule No.

15. Accompanying this application are sent—

1. Two copies, each marked A, of the rules.
2. 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.

..... day of, 20..... .

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 seven members signing this application.

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

FORM B

CERTIFICATE OF REGISTRY OF A TRADE UNION

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

.....
Registrar of Trade Unions

SECOND SCHEDULE

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