

# Trade Unions and Trade Disputes Act

## Principal Act

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|------------------|---------------------|-----------|
| Act. No. 1947-15 | <i>Commencement</i> | 19.8.1947 |
|                  | <i>Assent</i>       | 25.7.1947 |

| Amending enactment | Relevant current provisions                | Commencement date     |
|--------------------|--------------------------------------------|-----------------------|
| Act. 1948-20       | s. 10(1)                                   |                       |
| 1953-20            | ss. 24-34                                  |                       |
| 1966-04            | s. 23                                      |                       |
| 2006-38            | ss. 2-3, 5, 8, 13, 18(a), 21(3), 25, 30-33 | 1.3.2007 <sup>1</sup> |
| 2007-17            | s. 10(1)                                   | 14.6.2007             |

## English sources:

Trade Union Act 1871 (34 & 35 Vict. c.31)

Conciliation Act 1896 (59 & 60 Vict c.30)

Trade Disputes Act 1906 (6 Edw.7 c.47)

Trade Disputes Act 1965 (1965 c.48)

## Implementing:

Regulation (EEC) No 1612/68

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<sup>1</sup> *Commencement notice (LN. 2007/019)*

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## AN ACT TO REGULATE TRADE UNIONS AND TRADE DISPUTES.

*Preliminary***Short title.**

1. This Act may be cited as the Trade Unions and Trade Disputes Act.

**Interpretation.**

2. In this Act, unless the context otherwise requires,—

“Minister” means Minister with responsibility for employment;

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

Provided that nothing in this Act—

(a) shall affect—

- (i) any agreement between partners as to their own business;
- (ii) any agreement between an employer and those employed by him as to such employment;
- (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft ; or

(b) shall preclude any trade union from providing benefits for its members;

“registered” means registered under this Act ;

“Registrar” means the Registrar of Trade Unions;

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

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

## *Registration*

### **Appointment of Registrar.**

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

### **Trade unions prohibited from carrying on business unless registered.**

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

(2) A trade union or any officer or member thereof who contravenes the provisions of this section is guilty of an offence and is liable on summary conviction to a fine of £25.

### **Registration of trade unions.**

5. Any seven or more members of a trade union may, by subscribing their names to the rules of the union and otherwise complying with the provisions of this Act with respect to registration, register such trade union under this Act:

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

### **Requirements for registration.**

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

- (i) an application to register the trade union and its rules shall be sent to the Registrar with copies of the rules and a list of the titles and names of the officers of the trade union;
- (ii) the Registrar upon being satisfied that the trade union has complied with the rules respecting registry in force under this Act shall, subject to the provisions of section 9, register the trade union and its rules;
- (iii) no trade union shall be registered under a name identical with that by which any other existing trade union has been registered or so nearly resembling such name as to be likely to deceive the members of the public;

- (iv) the Registrar upon registering a trade union shall issue a certificate of registration.

**Rules of registered unions.**

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

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

*8. Repealed*

**Refusal of registration.**

9.(1) If the Registrar is satisfied that—

- (a) the applicants have not been duly authorized to Apply for registration ; or
- (b) the purposes of the trade union are unlawful ; or
- (c) the application is not in conformity with the provisions of this Act ; or
- (d) any of the members applying for registration is an alien, he may refuse registration.

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

(3) An appeal shall lie to the Supreme Court from a refusal of the Registrar to register a trade union and on such appeal the Supreme Court may make any such order as it thinks proper, including any directions as to the costs of the appeal. 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, 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; and, save to the extent that the Chief Justice may make rules under this Act whereby it is otherwise provided, the Trade Union Act Rules, 1913, made on the 27th day of November, 1913, under the Trade Union Act, 1913, shall, mutatis mutandis, be deemed so far as they may be applicable, to be in force in Gibraltar.

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

**Dissolution of unregistered unions.**

10.(1) Every trade union shall be registered in accordance with the provisions of this Act 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 9, to register the trade union.

whichever is the later date:

Provided that the Minister responsible for employment may for any good reason extend the prescribed period within which a trade union must be registered or dissolved.

(2) Every trade union which is not registered or dissolved within the period prescribed in subsection (1) and every officer thereof is guilty of an offence and is liable on summary conviction to a fine of £5 for every day it remains unregistered after the expiration of such period.

**Alteration of union rules.**

11.(1) Every alteration of the rules of a registered trade union shall be registered with the Registrar and shall take effect from the date of registration unless some later date is specified in the rules.

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

**Cancellation of registration.**

12.(1) It shall be lawful for the Registrar to cancel the registration of any trade union—

- (a) at the request of the trade union, to be evidenced in such manner as he may direct;
- (b) on proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that such trade union has wilfully, and after notice from the Registrar, violated any of the provisions of this Act or has ceased to exist.

(2) Not less than two months' previous notice specifying briefly the grounds of the proposed cancellation, except where the trade union has ceased to exist in which case notice of cancellation may be given forthwith, shall be given by the Registrar to the trade union before such cancellation is effected.

(3) An appeal from the decision of the Registrar under this section shall lie to the Supreme Court subject to the same conditions and rules as are provided for an appeal against the refusal of the Registrar to register a trade union. The decision of the Supreme Court shall be final.

**Rules relating to registration.**

13. The Minister may make rules respecting registry under this Act and in particular but without prejudice to the generality of the foregoing power with respect to—

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

*Accounts and Audit*

**Officers of unions to account.**

14.(1) Every treasurer or other officer of a registered trade union shall, at such times as the rules thereof require, render such accounts as are hereinafter mentioned, or if required so to do shall, at a meeting of the trade union, render to the members thereof a just and true account of all moneys received and paid by him since he last rendered the like account, and of the balance then remaining in his hands, and of all bonds and securities of such trade union.

(2) Such account shall be audited by some fit and proper person or persons to be appointed by the trade union.

(3) Upon the account being audited the treasurer or other officer as the case may be shall, if thereupon required, hand over to the trade union the balance which on such audit appeared to be due from him, and shall also if required hand over to the trade union all securities and effects, books, papers and property of the trade union in his hands or custody.

(4) If the treasurer or other officer fails to hand over such things and documents as in subsection (3) required, the committee of management (if the trade union or any member for and on behalf of the trade union may sue him in any competent court for the balance appearing to have been due from him upon the account last rendered by him, and for all moneys since received by him on account of such trade union and for the securities and effects, books, papers

and property in his hands or custody, leaving him to set off in such action the sums, if any, which he may have since paid on account of such trade union; and in any such action the plaintiff shall be entitled to recover full costs of suit to be taxed as between solicitor and client.

### **Accounts, etc. , to be sent to Registrar.**

15.(1) For the purposes of this section –

“British trade union” means an organization which is a trade union as defined in the Trade Union and Labour Relations Act 1974 and is required by that Act to submit an annual return relating to its affairs to the Certification Officer ;

“branch trade union” means a registered trade union which is a branch of a British trade union ;

“Certification Officer” has the same meaning as in the Employment Protection Act 1975 ;

“Trade Union and Labour Relations Act 1974” and “Employment Protection Act 1975” shall include any Act amending or replacing either of those Acts.

(2) Every registered trade union other than a branch trade union, shall transmit to the Registrar the account prepared and audited in accordance with section 14 within one month of its submission to the members of the trade union.

(3) Every branch trade union shall before the first day of September in every year-

- (a) produce to the Registrar a certificate signed by an officer of the British trade union of which it is a branch and stating that all the requirements of the Trade Union and Labour Relations Act 1974 have been complied with in respect of the British trade union ; and
- (b) transmit to the Registrar a true copy of the annual return which shall have been transmitted in that year to the Certification Officer by and in respect of the British trade union.

(4) Every officer of a registered trade union, which fails to comply with any of the provisions of this section is guilty of an offence and is liable on summary conviction to a fine of £25.

### *Unions and the Criminal Law.*

### **Trade unions not criminal.**

16. The purposes of any trade union shall not, by reason merely that there 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.

**Conspiracy in relation to trade disputes.**

17.(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 if such act committed by one person would not be punishable as a crime.

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

(3) Nothing in this section shall exempt from punishment any person guilty of a conspiracy nor which a punishment is prescribed by any law in force in Gibraltar.

(4) Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace or sedition or any offence against the State or the Sovereign.

(5) A crime for the purposes of this section means an offence for the commission of which the offender is liable to be imprisoned either absolutely or at the discretion of the court as an alternative for some other punishment.

(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 is sentenced to imprisonment, the imprisonment shall not exceed three months, or such longer time, if any, as may have been prescribed by the law for the punishment of that act when committed by one person.

**Intimidation or annoyance.**

18. A person who, with a view to compelling any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority—

- (a) uses violence to or intimidates such other person or his spouse or children, or injures his property; or
- (b) persistently follows such other person about from place to place; or
- (c) hides any tools, clothes or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or

- (d) watches or besets the house or other place where such other person resides or works or 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,

is guilty of an offence and is liable on summary conviction to imprisonment for three months or to a fine of £20.

### **Peaceful picketing.**

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

### *Unions and the Civil Law*

### **Trade unions not unlawful for civil purposes.**

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

### **Immunity of unions from action of tort.**

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

(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 a trade union, except in respect of any tortious act committed by or on behalf of the trade union in contemplation or in furtherance of a trade dispute.

(3) Nothing in this section shall affect the liability of a trade union or any official thereof to be sued under the Equal Opportunities Act 2006.

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

22. An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable on the ground only that it induces some other person to break a contract of

employment or that it is an interference with the trade, business, or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills.

**Certain acts not actionable in tort.**

23.(1) An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable in tort on the ground only that it consists of his threatening—

- (a) that a contract of employment (whether one to which he is a party or not) will be broken ; or
- (b) that he will induce another to break a contract of employment to which that other is a party.

*Conciliation and Arbitration*

**Interpretation.**

24. In sections 25 and 29, unless the context otherwise requires, —

“trade dispute” means any dispute or difference between an employer, or any class of employers, and worker, or between worker and worker, connected with the employment or non-employment, or the terms of the employment, or with the conditions of labour, of any person ;

“worker” means any person who had entered into or works under a contract with an employer whether the contract be by way of manual labour, clerical work, or otherwise, be express or implied, oral or in writing, and whether it be a contract of service or of apprenticeship or a contract personally to execute any work or labour.

**Powers of the Minister as to trade disputes.**

25.(1) Where a trade dispute exists or is apprehended, the Minister may, if he thinks fit, exercise all or any of the following powers, namely—

- (a) appoint a person or persons to inquire into the causes and circumstances of the dispute;
- (b) take such steps as the Minister may deem to be expedient for the purpose of enabling the parties to the dispute to meet together, by themselves or their representatives, under the presidency of a chairman mutually agreed upon or nominated by him, or by some other person or body, with a view to the amicable settlement of the difference;

- (c) on the application of employers or workers interested, and after taking into consideration the existence and adequacy of means available for conciliation in the trade and the circumstances of the case, appoint a person or persons to act as conciliator or as a board of conciliation; or
- (d) with the consent of both parties refer the matter to an arbitration tribunal mutually agreed upon or failing agreement appointed by the Minister consisting of either—
  - (i) a sole arbitrator; or
  - (ii) an arbitrator assisted by one or more assessors nominated by or on behalf of the employers concerned and an equal number of assessors nominated by or on behalf of the employees concerned or, where a registered trade union exists, nominated by such union, provided that the award shall be made and issued by the arbitrator only; or
  - (iii) one or more arbitrators nominated by or on behalf of the employers concerned and an equal number of arbitrator, nominated by or on behalf of the employees concerned or, where a registered trade union exists, nominated by such union and an independent chairman nominated by the Minister.

(2) If any person is so appointed to act as conciliator, he shall inquire into the cause and circumstances of the dispute by communication with the parties, and otherwise shall endeavour to bring about a settlement of the dispute and shall report his proceedings to the Minister.

### **Vacancies on tribunals.**

26.(1) When an arbitration tribunal consists of more than one arbitrator and any vacancy occurs in their number the tribunal may, with the consent of the parties, act notwithstanding such vacancy.

(2) Whenever the tribunal consists of an arbitrator, assisted by assessors and any vacancy occurs in the number of assessors the tribunal may in the discretion of the arbitrator either act notwithstanding such vacancy or consent to another assessor being nominated and appointed to fill such vacancy.

(3) No act, proceeding, or determination of the tribunal shall be called in question or invalidated by reason of any such vacancy, provided that in the circumstances referred to in subsection (1) the required consent has been first obtained.

### **Appearance by barrister or solicitor.**

27. It shall be in the discretion of an arbitration tribunal to permit any interested person to appear by barrister or solicitor on any proceedings before such tribunal.

**Evidence.**

28.(1) For the purpose of dealing with any matter referred to it, an arbitration tribunal shall have full power by order to require any person to furnish, in writing or otherwise, such particular, in relation to such matters as the tribunal may require, and where necessary to attend before the tribunal and give evidence on oath or otherwise, and to require the production of documents, so as to elicit all such information as in the circumstances may be considered necessary, without being bound by the rules of evidence in civil or criminal proceedings:

Provided always that, if any witness objects to answer any question or to produce any document on the ground that it will tend to incriminate him or on any other lawful ground, he shall not be required to answer such question or to produce such document, nor shall he be liable to any penalties for refusing to do so.

(2) A person who—

- (a) refuses or omits, without sufficient cause, to attend at the time and place mentioned in an order served upon him ;
- (b) attends, but leaves without the permission of the tribunal or board;
- (c) refuses without sufficient cause to answer, or to answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him by or with the concurrence of the tribunal or board;
- (d) refuses or omits without sufficient cause to furnish any particulars or to produce any documents in his possession or under his control and mentioned or referred to in an order served upon him,

is guilty of an offence and is liable on summary conviction to a fine of £50.

**Award of tribunal not to conflict with any law.**

29. Where any trade dispute referred to an arbitration tribunal involves questions as to wages, or as to hours of work, or otherwise as to the terms or conditions of or affecting employment which are regulated by this or any other Act the tribunal shall not make any award which is inconsistent with the provisions of that Act,

**Interpretation of the award.**

30. If any question arises as to the interpretation of any award of an arbitration tribunal, the Minister or any party to the award may apply to the tribunal for a decision on such question, and the tribunal shall decide the matter after hearing the parties, or without such hearings, provided the consent of the parties has been first obtained, The decision of the tribunal shall

be notified to the parties and shall be deemed to form part of and shall have the same effect in all respects as the original award.

### **Publication of the award.**

31. Any award of an arbitration tribunal shall be submitted to the Minister who shall as soon as possible thereafter cause the same to be published in such manner as he thinks fit.

### **Sittings may be public or private.**

32.(1) It shall be in the discretion of an arbitration tribunal to admit or exclude the public or the press from any of its sittings.

(2) Whenever the press shall have been allowed to be present at a sitting of the tribunal and not otherwise, a fair and accurate report or summary of the proceedings including the evidence adduced at that sitting may be published:

Provided, however, that until the award has been published by order of the Minister, no comment shall be published in respect of the proceedings or the evidence. A person who contravenes this provision is guilty of an offence and is liable on summary conviction to a fine of £50.

### **Rules of procedure.**

33. The Minister may make rules regulating the procedure to be followed by an arbitration tribunal and whenever any question shall arise in the course of an arbitration in respect of which rules have not been made the tribunal shall regulate its own procedure.

### **Exclusion of Arbitration Act.**

34. The Arbitration Act shall not apply to any proceedings of an arbitration tribunal under this Part or to any award issued by it.

### **Application to the Crown.**

35. Sections 24 to 34 shall not apply to persons in the naval, military, or air services of the Crown, but otherwise shall apply to workers employed by or under the Crown in the same manner as if they were employed by or under a private person.

**SCHEDULE.**

## Section 7.

**MATTERS TO BE CONTAINED IN THE  
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 purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby and the fines and forfeitures to be imposed on any member of the trade union.
3. The manner of making, altering, amending and rescinding rules.
4. A provision for the appointment and removal of a general committee of management, of a treasurer and other officers.
5. A provision for the keeping of full and accurate accounts by the treasurer.
6. A provision for the investment of the funds or their deposit in a bank and for an annual or periodical audit of accounts.
7. The inspection of the books and names of members of the trade union by every person having an interest in the funds of the trade union.
8. The manner of dissolving the trade union.