

LAWS OF BRUNEI
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CHAPTER 128
TRADE UNIONS

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TRADE UNIONS ACT
An Act to regulate trade unions5 of 1961
12 of 1972*Commencement: 20th January 1962* S.33/62

1. This Act may be cited as the Trade Unions Act. Short title
2. (1) In this Act — Interpreta-
tion
- “employer” includes the Government of Brunei;
- “registered” means registered under this Act;
- “Registrar” means the Registrar of Trade Unions appointed under section 6;
- ↓* — “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 employers, or between workers and workers, or between employers and employers, 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;
- “worker” 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.

(2) 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.

Trade unions not criminal

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

Trade unions not unlawful for civil purposes

4. 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.

Trade unions prohibited from carrying on business unless registered

5. (1) No trade union shall perform any act in furtherance of the purposes for which it has been formed unless such trade union is registered under this Act.

(2) Any trade union or any officer or member thereof who contravenes the provisions of this section shall be guilty of an offence: Penalty, a fine of \$3,000.

Registrar of Trade Unions

6. His Majesty the Sultan and Yang Di-Pertuan may appoint such person as he may think fit to be the Registrar of Trade Unions.

7. 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 the Act with respect to registration, register such trade union under this Act; Minimum number of members

Provided that if any one of the purposes of such trade union be unlawful the trade union shall not be registered and, if registered, the registration shall be void.

8. (1) Every trade union shall be registered in accordance with the provisions of this Act or be dissolved within 3 months of the date — Compulsory registration

(a) of its formation;

(b) of any notification by the Registrar that he has refused under section 10 to register the trade union; or

(c) of the commencement of this Act, 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: Penalty, a fine of \$300 for every day it remains unregistered and undissolved after the expiration of such period.

9. (1) With respect to the registration under this Act of a trade union, and of the rules thereof, the following provisions shall apply — Rules for registration

(a) an application to register the trade union and its rules shall be sent to the Registrar with copies of the rules and the list of the titles and names of the officers of the trade union;

(b) the Registrar upon being satisfied that the trade union has complied with the regulations re-

specting registration in force under this Act shall, subject to the provisions of section 10, register the trade union and rules;

(c) no trade union shall be registered under a name identical with that by which any other existing trade union has been registered or so nearly resembling such name as to be likely to deceive the members of the public;

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

(2) A certificate issued under subsection (1) shall, until the contrary is proved and unless the certificate has been cancelled or withdrawn, be evidence that the provisions of the Act relating to registration have been complied with.

Refusal of
registration

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

(a) the applicants have not been duly authorised to apply for registration;

(b) the purposes of the trade union are unlawful;

(c) the application is not in conformity with the provisions of this Act;

(d) the principal purposes of the combination do not substantially correspond with the principal purposes of a trade union within the meaning of section 2; or

(e) the combination seeking registration is an organisation consisting of persons engaged in or working at more than one trade, industry or calling and that its constitution does not contain suitable

provision for the protection of their respective sectional industrial interests,

he may refuse registration.

(2) The Registrar shall not register a trade union if he is satisfied that any other trade union already registered is sufficiently representative of the whole of the interests in respect of which the applicants seek registration:

Provided that if the Registrar thinks that there exist reasonable grounds for believing that a trade union already registered is sufficiently representative of the whole or of a substantial proportion of the interests on behalf of which the applicants seek registration, he shall, by notice in the *Gazette* or otherwise, inform any registered trade unions which appear to represent the same interests as the applicants of the receipt of their application, and shall invite any registered trade unions concerned, to submit in writing or otherwise, within a period to be fixed by him, any objections they may wish to make against such registration.

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

(4) An appeal shall lie to the Minister from a refusal of the Registrar to register a trade union and on such appeal the Minister may make any such order as he thinks proper, including any directions as to the costs of the appeal. Any such order of the Minister shall be final.

(5) The Minister 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 an appeal.

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

Cancellation
of registra-
tion

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

(a) at the request of the trade union to be evidenced in such manner as he may direct;

(b) on proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that such trade union has wilfully, and after notice from the Registrar, violated any of the provisions of this Act or has ceased to exist.

(2) Not less than 2 months' 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 Minister subject to the same conditions as are provided for an appeal against the refusal of the Registrar to register a trade union, and the Minister may make rules providing for the same matters for which rules may be made in respect of such appeal. The decision of the Minister shall be final.

(4) A trade union whose registration has been cancelled in pursuance of paragraph (b) of subsection (1) shall, from the time of such cancellation, cease to enjoy as such the privileges of a registered trade union and its affairs shall be dissolved and shall be wound up by the Registrar in the prescribed manner, but without prejudice to any liability actually incurred by such trade union which may be enforced against the same as if such cancellation had not taken place.

(5) Any trade union which, after cancellation of its registration, continues in active operation and every officer,

member of the committee of management or other person purporting to act on behalf of such trade union shall be guilty of an offence: Penalty, a fine of \$300 for every day during which such activities continue.

12. (1) 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 subsection (2) and of section 14, change its name. Change of name

(2) 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.

13. Any 2 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 consent in writing either by ballot or otherwise and are recorded in favour of the proposal; and provided no amalgamation shall prejudice any right of any such trade union or any right of a creditor of any such trade union. Amalgamation

14. (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 7 members of the registered trade union changing its name, and, in the case of an amalgamation, by the secretary and by 7 members of each and every registered trade union which is a party thereto. Notice of change of name or amalgamation

(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 Act 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 Act in respect of amalgamation have been complied with and that the trade union formed thereby is entitled to registration under section 9, 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 2 or more registered trade unions, may appeal against such refusal in the manner provided by sections 10 and 11.

Federation of
trade unions

15. (1) Any 2 or more registered trade unions whose members are ordinarily employed in a similar trade, occupation or industry may form or create a federation of trade unions:

Provided that —

(a) the votes of at least one-half of the members of each or every such trade union entitled to vote consent in writing either by ballot or otherwise and are recorded in favour of the proposal, and

(b) no federation shall prejudice any right of any such trade union or any right of a creditor of any such trade union.

(2) The provisions of this Act relating to trade unions shall apply so far as the same may be applicable to a federation of trade unions as if such federation were a trade union.

(3) Every application for registration of a federation of trade unions shall be signed by the secretary and by 7 members of each and every registered trade union forming or creating such federation.

(4) Upon receipt of any such application the Registrar shall, if satisfied that the provisions of this section have been complied with and that the federation is entitled to registration, register the federation.

(5) A registered trade union may affiliate with a registered federation of trade unions representing a similar trade, occupation or industry if the consent of the members of the trade union to such affiliation has been obtained in the manner provided in subsection (1) and the federation of trade unions files with the Registrar a notice, signed by the secretary of the federation, that the application to affiliate has been duly approved by the federation.

(6) Notice in writing of any resolution for affiliation passed by a registered trade union under subsection (5) signed by the secretary and by 7 members of such union shall be filed with the Registrar within one month of the date of the passing of such resolution.

(7) Upon the filing of both the notices referred to in subsections (5) and (6), the Registrar shall, if satisfied that the provisions of this section have been complied with and that the trade union is entitled to affiliate with the federation, enter the fact of such affiliation in the register, and,

from the date of such entry, the trade union shall be deemed to be a member of the federation.

Officers of
trade unions

16. (1) Every officer of a registered trade union or federation of trade unions other than the secretary shall be *bona fide* and ordinarily engaged or employed or who for a period of not less than 2 years have been engaged or employed in the trade, industry or occupation represented by such trade union or federation of trade unions.

(2) The Minister may by special or general order declare —

(a) that the provisions of this section shall not apply to any registered trade union or class of registered trade unions specified in the order; or

(b) may grant exemption from the provisions of this section in respect of such officers or such proportion of the officers of any registered trade union or class of registered trade unions as may be specified in the order.

(3) Any permission granted under subsection (2) shall be notified in the *Gazette*.

(4) No person may, without the consent of the Registrar, at any time be an officer of more than one trade union.

Affiliation
outside
Brunei

17. (1) Except with the consent of the Minister, no registered trade union shall be affiliated or connected with any trade union or other organisation which is established outside Brunei in such manner as to affect the freedom of action or independence of the trade union or so as to place the trade union which is established within Brunei, or any of its members, in any way or in respect of any matter under the control of the trade union or other organisation which is established outside Brunei.

(2) Every trade union so affiliated or connected which has not obtained the consent of the Minister to be so affiliated or connected, or from which any such consent has been withdrawn, shall be deemed to be an unlawful society within the meaning and for all the purposes of the Societies Act. Cap. 66

18. (1) No member of the Royal Brunei Police Force, the Royal Brunei Armed Forces and no member of the Prison Service shall join or be a member of any trade union or shall be accepted as a member of any trade union. Membership of Government officers

(2) Any person who contravenes subsection (1) or who knowingly is a party to such contravention shall be guilty of an offence: Penalty, a fine of \$6,000.

19. (1) No person shall be denied employment solely by reason of his refusal to join or not to join a trade union, and no person shall contract to require that a person shall be or shall become a member of a trade union as a condition of obtaining employment. Protection of workers' option to join a trade union

(2) No employer shall discriminate against any employed person by reason of his being or not being a member of a trade union.

(3) Any person or employer who contravenes either subsection (1) or (2) shall be guilty of an offence: Penalty, a fine of \$6,000 and 6 months imprisonment.

20. The Societies Act and the Companies Act shall not except for the purpose of subsection (2) of section 17 apply to a trade union, and the registration of any trade union under either such Act shall be void. Provisions of Societies Act and Companies Act, not to apply to trade unions
Cap. 66,
Cap. 39

21. (1) Every treasurer or other officer of a registered trade union shall, at such times as by the rules thereof he is called upon to do, render to the members thereof, at a meeting of the trade union, a just and true account of all Liability to render accounts

moneys received and paid by him since he last rendered the like account or, if no previous account has been rendered, since the formation of the trade union 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 with the approval of the Registrar.

(3) Upon the account being audited, the treasurer or other officer, as the case may be, shall, if so 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 moneys, securities and effects, books, papers and property of the trade union as in subsection (3) required, the committee of management of the trade union or any member for and on behalf of the trade union may sue him in any court having jurisdiction —

(a) for the balance appearing to have been due from him upon the account last rendered by him, or, if no such account has previously been so rendered, for the balance appearing to be due since the formation of the trade union;

(b) for all moneys received by him since such previously rendered account or, as the case may be, since the formation of the trade union; and

(c) 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

(5) The Registrar may at any time order the books, accounts, vouchers, documents, securities and funds of any trade union to be inspected or audited by some fit and proper person or persons appointed by him, and it shall be the duty of the secretary, treasurer or other officers of a trade union to make available to the person or persons so appointed all the accounts, books, documents, vouchers, securities and funds of the trade union for purposes of inspection or audit.

22. The funds of a registered trade union may, subject to any limitations contained in the rules thereof and to the provisions of this Act, be expended only for the following objects —

Application
of funds

(a) the payment of salaries, allowances and expenses to officers of the trade union;

(b) the payment of expenses of the administration of the trade union, including audit of the accounts of the funds of the trade union;

(c) the prosecution or defence of any legal proceedings to which the trade union or any member thereof is a party, when such prosecution or defence is undertaken for the purposes of securing or protecting any rights of the trade union as such or any rights arising out of the relations of any 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) compensation of members for loss arising out of trade disputes;

(f) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members;

(g) expenditure on trade union education and training; and

(h) any other object which by notification in the *Gazette* the Minister may declare to be an object for which such funds may be expended.

Prohibition of payment of fines and penalties

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

Use of funds for political purposes

24. The funds of a registered trade union shall not be applied either directly or indirectly in payment of contributions to any political party or for any political purpose whether within or without Brunei.

Audited accounts to be sent to Registrar

25. (1) Every registered trade union shall transmit to the Registrar the accounts prepared and audited in accordance with section 21 within 3 months of the end of the financial year to which the accounts relate.

(2) Every officer of a registered trade union which fails to comply with the provisions of this section shall be guilty of an offence: Penalty, a fine of \$3,000.

Inspection of accounts and documents

26. The account books of a registered trade union and a list of its members thereof shall be open to inspection —

(a) by any officer or member of the trade union at such times as may be provided for in the rules of the trade union; and

(b) by the Registrar at any reasonable time.

(2) Any person who prevents or obstructs the inspection of the account books of a registered trade union by an officer or member of such trade union at a time prescribed by the rules thereof for such purpose or by the Registrar at any reasonable time shall be guilty of an offence: Penalty, a fine of \$3,000.

27. (1) The rules of every registered trade union shall contain provisions in respect of the several matters mentioned in the Schedule.

Rules of registered trade unions

(2) A copy of such rules shall be supplied by the trade union to any person on demand on payment of a sum not exceeding \$10.00 or such other sum as may be prescribed by the Minister.

28. (1) Every alteration of the rules, or of the titles or names of the officers, 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.

Alteration of rules of trade unions, etc.

(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 mentioned in the Schedule.

29. (1) Where, on a complaint made by a member of a registered trade union, it is shown to the satisfaction of the court 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 court shall, if it considers the justice of the case so requires, order such officer or member to deliver all such property to the members of the union and to pay to them the money so unlawfully expended or withheld.

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

(2) A complaint made under subsection (1) shall not be entertained unless the court 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 sub-section (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: Penalty, a fine of \$1,000.

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

(5) An injunction restraining any unauthorised or unlawful expenditure of the funds of a trade union may be granted on the application of 5 or more persons having a sufficient interest in the relief sought or of the Registrar, or of the Attorney General, and in granting any such injunction the court, in the case of the dissolution of any trade union upon the cancellation of its registration, may order that the funds of that trade union be paid over to the Court for disposal in accordance with the rules of that trade union.

Supplying
false information
regarding trade unions

30. 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: Penalty, a fine of \$3,000 and 3 months imprisonment.

Failure to
submit returns

31. 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

Act 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 Act 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 committee of management of that registered trade union shall severally be guilty of an offence: Penalty, a fine of \$3,000.

32. No prosecution shall be instituted under this Act except by or with the consent of the Public Prosecutor. Limitation of prosecutions

33. Copies of this Act shall be posted at such places and in such languages as the Commissioner of Labour may direct. Copies of Act to be posted as directed by the Commissioner of Labour

34. The Minister may make regulations generally for carrying out the provisions of this Act and in particular but without prejudice to the generality of the foregoing power such regulations may provide for — Regulations

(a) the books and registers to be kept for the purposes of this Act and the forms thereof;

(b) the manner in which trade unions and the rules of the trade unions shall be registered and the fees payable on registration;

(c) the manner in which, and the qualifications of persons by whom, the accounts of registered trade unions or of any class of such trade unions shall be audited;

(d) 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;

(e) the due disposal and safe custody of the funds and moneys of a trade union;

(f) the creation, administration, protection, control and disposal of the benevolent funds of registered trade unions and all matters connected therewith or incidental thereto;

(g) the returns to be made, and the accounts to be rendered, to the Registrar by the officers of trade unions; and

(h) anything required or permitted by this Act to be prescribed.

SCHEDULE

(Section 27)

1. The name of the trade union, the address of its office and the place or places 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, 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 and of a treasurer, a secretary and other officers of the trade union.
5. A provision for the keeping of a register of members of the trade union and of the committee of management and officers thereof.
6. A provision for the keeping of full and accurate accounts by the treasurer.

7. 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.

8. 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.

9. The manner of the dissolution of the trade union and the disposal of the funds thereof available at the time of such dissolution.

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