



THE OFFICIAL GAZETTE

OF THE COLONY AND PROTECTORATE OF KENYA

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GOVERNMENT NOTICE No 9

The Governor in Council has approved of the following Bill being introduced into the Legislative Council

J H BUTTER,
Acting Clerk to the Legislative Council

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE PUBLIC HEALTH
(DIVISION OF LANDS) ORDINANCE**

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows —

Short title

1. This Ordinance may be cited as the Public Health (Division of Lands) (Amendment) Ordinance, 1952, and shall be read and construed as one with the Public Health (Division of Lands) Ordinance, hereinafter referred to as the principal Ordinance

5

Cap 131

Amendment of
certain
provisions
of the principal
Ordinance

2 The provisions of the principal Ordinance specified in the first column of the Schedule to this Ordinance are amended in the respects specified in the second column of the said Schedule

SCHEDULE

<i>First Column</i>	<i>Second Column</i>
Section 3	By inserting the following new definition next after the definition of "applicant"— "appropriate authority" means— (a) in any case in which an application under section 6 of this Ordinance is approved both by the local authority or local authorities concerned and by the Commissioner of Lands, the Commissioner of Lands, and (b) in any other case, the Board
Section 5	(a) By inserting after the words "Notwithstanding anything in any other Ordinance contained" the words "but subject as hereinafter provided" (b) By substituting for the words "the Board" the words "the appropriate authority"
Section 6	By substituting for the words "the Board" wherever they occur the words "the appropriate authority"
Section 8	By inserting after the words "the Commissioner of Lands" the words "shall either approve the application or"
Sections 10 and 11	By substituting for the words "the Board" wherever they occur the words "the appropriate authority"
Section 13	By substituting for the words "the Board" wherever they occur in sub-section (2) of the section the words "the appropriate authority"

MEMORANDUM OF OBJECTS AND REASONS

Recently a committee of inquiry was appointed to examine the working of the Lands and Survey Department. One of the recommendations of this committee was that the procedure under the Public Health (Division of Lands) Ordinance (Cap 131) should be amended to provide that only those matters on which the Commissioner of Lands and the local authority do not agree should be referred for the consideration of the Public Health (Division of Lands) Board.

This Bill will make such amendments to the Public Health (Division of Lands) Ordinance as are necessary to give effect to the recommendations of the committee subject to the qualification that it is considered that if the Commissioner of Lands and the local authority consider that an application should be refused the matter must be referred to the Board.

No additional expenditure of public moneys will be incurred if the provisions of this Bill become law.

Nairobi,
24th December, 1951

JOHN WHYATT,
Attorney General.

GOVERNMENT NOTICE No 10

The Governor in Council has approved of the following Bill being introduced into the Legislative Council

J H BUTTER,
Acting Clerk to the Legislative Council

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE NATIVE
AUTHORITY ORDINANCE**

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows —

- | | | |
|----|--|---|
| 1 | 1. This Ordinance may be cited as the Native Authority (Amendment) Ordinance, 1952, and shall be read and construed as one with the Native Authority Ordinance, hereinafter referred to as the principal Ordinance | Short title

Cap 97 |
| 5 | 2. There shall be inserted next after section 4 of the principal Ordinance the following new section— | Insertion of new section 4A in the principal Ordinance |
| 10 | 4A A Provincial Commissioner may appoint any African he may deem suitable to be an official sub-chief (hereinafter referred to as sub-chief) in any area under the jurisdiction of an official chief in his province, and may at any time suspend or cancel any such appointment | Appointment of official sub-chief |
| 15 | 3. There shall be inserted next after section 15 of the principal Ordinance the following new section— | Insertion of new section 15A in the principal Ordinance |
| 20 | 15A (1) Whenever it is made to appear to the Governor that it is necessary for any work or service in connexion with the conservation of the natural resources of the Colony to be done or rendered the Governor may, by proclamation, empower any chief to issue orders to be obeyed by the Africans within the jurisdiction of such chief requiring any able-bodied male African to perform any such work or to render any such service as aforesaid specified in such order | Power to compel work etc, in connexion with the conservation of natural resources |
| 25 | Provided that a proclamation under this section shall not be issued unless the Governor is satisfied— | |
| 30 | (i) that the work to be done or the service to be rendered is of important direct interest to the community called upon to do the work or render the service, | |
| 35 | (ii) that the work or service is of present or imminent necessity, | |
| 40 | (iii) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of employment not less favourable than those prevailing in the area concerned for similar work or service, and | |
| 45 | (iv) that the work or service will not lay too heavy a burden on the community concerned, having regard to the labour available and its capacity to undertake the work | |
| | (2) Any African required to do any work or render any service under this section shall be remunerated at rates not less than those prevailing for that kind of work or service in the district in which such work is performed or service rendered and shall not be called upon to do such work or render such service for any period exceeding sixty days, inclusive of any time spent in going to and | |

returning from the place of work, in any one period of twelve months

(3) Every African who performs any such work or renders any such service shall be furnished with a certificate showing the period or periods during which he has performed any such work or rendered any such service

Amendment of
the principal
Ordinance

4. The principal Ordinance is amended in the manner set out in the Schedule to this Ordinance

SCHEDULE

Section 5	Insert the words "or sub-chief" after the word "chief"
Section 6	Insert the words "or sub-chief" after the word "chief"
Section 7	(i) Insert the words "or sub-chief" after the word "chief" wherever it occurs therein (ii) In sub-section (3) substitute for the words "some court other than a native tribunal" the words "any court of law including an African court" and delete the words "by a Magistrate"
Section 8	Insert the words "or sub-chief" after the word "chief" wherever it occurs therein
Section 18	Substitute for the words "thirty shillings" the words "one hundred and fifty shillings or to imprisonment not exceeding two months or to both such fine and imprisonment"

MEMORANDUM OF OBJECTS AND REASONS

It is proposed, by the present Bill, to make provisions for the official appointment of suitable sub-chiefs and to confer upon such duly appointed sub-chiefs the jurisdiction and powers of the principal Ordinance in respect of the maintenance of order, the employment of persons to assist in the carrying out of lawful duties, the prevention of crime and arrest of offenders and the attendance of Africans before African Courts

Clause 2 of the Bill accordingly provides for the official appointment of sub-chiefs, and *Clause 4* of the Bill amends the principal Ordinance by conferring certain powers of chiefs upon sub-chiefs. *Clause 4* of the Bill further amends the principal Ordinance so as to bring the penalty into line with that provided by section 12 of the principal Ordinance

2 Examination of the Compulsory Labour Regulation Ordinance (Cap 112) has revealed that its provisions could be dispensed with if there were retained power to make use where necessary, of compulsory labour for the conservation of the natural resources of the Colony. It is therefore proposed to repeal the Compulsory Labour Regulation Ordinance, and, by the present Bill, to amend the Native Authority Ordinance (Cap 97) (herein referred to as the principal Ordinance) so as to enable the Governor by proclamation to empower a chief to issue orders requiring able-bodied Africans to perform any work or service in connexion with the conservation of the natural resources of the Colony

Clause 3 of the Bill provides for this and contains express provision that a proclamation shall not be issued unless the Governor is satisfied as to the matters with respect to which section 4 of the Compulsory Labour Regulation Ordinance now requires the Governor to be satisfied before compulsory labour can be imposed

Sub-clause (2) of *clause 3* requires that remuneration for any such work or service shall be at not less than the rates prevailing for the kind of work or service in the district, and that no African shall be liable to be called upon to do compulsory work or service on more than sixty days in any period of twelve months. *Sub-clause (3)* of *clause 3* requires the African to be furnished with a certificate showing the period or periods during which he has performed compulsory work or service

3 It is not expected that any additional expenditure of public moneys will be incurred if the provisions of this Bill become law

Nairobi,
11th October 1951

JOHN WHYATT,
Attorney General

GOVERNMENT NOTICE No 11

The Governor in Council has approved of the following Bill being introduced into the Legislative Council

J H BUTTER,
Acting Clerk to the Legislative Council

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY

SECTION

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- 2—Interpretation

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- 3—Staff associations employees' associations and employees' organizations where not to be deemed to be trade unions
- 4—Supervision and control of staff associations, employees associations and employees organizations Rules

PART III—APPOINTMENT OF REGISTRAR AND OTHER OFFICERS

- 5—Appointment of Registrar
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- 7—Protection of officers

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- 8—Registrar of Trade Unions
- 9—Necessity for registration
- 10—Application for registration
- 11—Registration as a trade union or notification of deferment of registration
- 12—Registration as a trade union of a probationary trade union
- 13—Certificate of registration
- 14—Power of Registrar to call for further particulars
- 15—Powers of Registrar to require alteration of name
- 16—Refusal of registration
- 17—Cancellation or suspension of registration
- 18—Appeal
- 19—Trade Unions prohibited from carrying on business and the consequences of failure to register
- 20—Consequences of cancellation of registration
- 21—Consequences of suspension

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- 22—Rights immunities privileges and obligations of a trade union pending registration
- 23—Immunity from civil suit in certain cases
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SECTION

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- 45—Injunction to restrain misuse of funds
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- 52—Peaceful picketing and prevention of intimidation Picketing in such numbers, etc as to be calculated to intimidate
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- 56—Regulations

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- 57—Penalty for misuse of money or property of a trade union
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- 59—Jurisdiction

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- 60—Nomination
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A BILL ENTITLED
AN ORDINANCE TO PROVIDE FOR STAFF ASSOCIATIONS, EMPLOYEES' ASSOCIATIONS, EMPLOYEES' ORGANIZATIONS, FOR THE REGISTRATION AND CONTROL OF TRADE UNIONS AND MATTERS CONNECTED THEREWITH

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows —

PART I—PRELIMINARY

1. This Ordinance may be cited as the Trade Unions Ordinance, 1952, and shall come into force on such date as the Governor may by notification in the Gazette appoint

Short title and commencement

2. (1) In this Ordinance unless the context otherwise requires—

Interpretation

“employee” means any person who has entered into or works under contract with an employer, whether the contract

be for manual labour, clerical work or otherwise, be express or implied, oral or in writing and whether it be a contract of service or apprenticeship or a contract personally to execute any work,

“employees’ association” means any association or combination, whether temporary or permanent, of more than six employees who work for the same employer and are employed in the same trade or in the same industry (whether agricultural or otherwise) which—

- (a) has as its principal purpose the regulation of relations between such employees and their employer or between such employees amongst themselves, and
- (b) has notified its formation in manner prescribed by rules made under section 4 of this Ordinance,

“employees’ organization” means any association or combination, whether temporary or permanent, of more than six employees who work for different employers, or who work for the same employer in different trades or industries, which—

- (a) has as its principal purpose the regulation of relations between such employees and their employers or employer, or between such employees amongst themselves,
- (b) is required to and has notified its formation in the manner prescribed by rules made under section 4 of this Ordinance, and
- (c) has obtained the approval in writing of the Labour Commissioner to its continuance in existence as an employees’ organization,

“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,

“funds of a trade union” shall not include any moneys standing to the credit of any contributory provident fund created for the benefit of members of a trade union,

“local authority” means—

- (a) the Council or Board of any Municipality established under the Municipalities Ordinance,
- (b) a District Council established under the Local Government (District Councils) Ordinance,
- (c) an African District Council established under the African District Councils Ordinance, 1950,
- (d) the District Commissioner in relation to any township established under the Townships Ordinance, or
- (e) the District Commissioner in respect of any other district or area,

“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 not with the intention of finally determining employment but 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 and any officer of a branch, but does not include an auditor,

“probationary trade union” means a trade union which has applied, or which has been called upon by the Registrar

Cap 136

Cap 140

No 12 of 1950

Cap 133

to apply to be registered as a trade union in accordance with the provisions of this Ordinance, but whose registration has been deferred under section 11 of this Ordinance,

“register” means the register of trade unions maintained
5 by the Registrar under section 8 of this Ordinance,

“registered office” means that office within the Colony of a trade union which is registered under section 35 of this Ordinance as the head office of the trade union,

“registered trade union” means a trade union registered
10 as a trade union under this Ordinance or registered as a trade union at the commencement of this Ordinance under the provisions of any Ordinance repealed by this Ordinance,

“Registrar” means the person for the time being appointed by the Governor under section 5 of this Ordinance
15 by name or by office to be or to act as Registrar of Trade Unions, and includes any person appointed by the Governor under section 6 of this Ordinance to be or to act as an Assistant Registrar of Trade Unions,

“staff association” means any combination, whether
20 temporary or permanent, of employees being more than six in number and employed in a civilian capacity under the Crown or a local authority or local authorities, the principal object of which is the regulation of the relations between such employees and the Crown or such local authority, whose
25 formation has been notified in the manner prescribed by rules made under section 4 of this Ordinance,

“strike” means the cessation of work by a body of persons employed, acting in combination, or a concerted refusal or a refusal under a common understanding of any
30 number of persons employed to continue to work for an employer in consequence of a dispute done as a means of compelling their employer or any person or body of persons employed, or to aid other employees in compelling their employer, or any person or body of persons employed, to
35 accept or not to accept terms or conditions of or affecting employment,

“trade dispute” means any dispute or difference between employers and employees, or between employees and employees, connected with the employment or non-
40 employment, or the terms of the employment, or with the conditions of labour, of any person,

“trade union” means any association or combination, whether temporary or permanent, of more than six persons (other than a staff association, employees’ association, or
45 employees’ organization not deemed to be a trade union under the provisions of section 3 of this Ordinance), the principal objects of which are under its constitution the regulation of the relations between employees and employers, or between employees and employees, or between employers and
50 employers, whether such combination would or would not, if this Ordinance or any Ordinance thereby repealed 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

55 Provided that nothing in this Ordinance—
(a) shall affect—

- (1) any agreement between partners as to their own business,
- (2) any agreement between an employer and those
60 employed by him as to such employment,
- (3) 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

(2) Whenever by this Ordinance the approval of the Labour Commissioner for the doing of any act is required there shall be implied a power in the Labour Commissioner 5 to refuse his approval or to grant his approval subject to such conditions as he may impose, and for good cause to revoke any approval so granted

PART II—STAFF ASSOCIATIONS, EMPLOYEES' ASSOCIATIONS
AND EMPLOYEES' ORGANIZATIONS 10

Staff associa-
tions employees'
associations and
employees
organizations
where not to be
deemed to be
trade unions

3. (1) A staff association or an employees' association or an employees' organization shall not, by reason only of its having as its principal object or as one of its principal objects the regulation of relations between employees and an employer or employers, or between employees and employees, 15 be deemed to be a trade union for the purposes of this Ordinance, unless—

- (a) it, or any person on its behalf collects from members or from any other person, any subscription or pecuniary contribution to its funds other than an 20 annual contribution to an office expense fund or a welfare fund, or creates any fund other than an office expense fund, or a welfare fund, or
- (b) it applies to be registered as a trade union, or
- (c) it is notified by the Registrar that it is required to 25 register as a trade union within a period specified in such notification, or
- (d) in the case of an employees' organization, it has not received the approval of the Labour Commissioner to its continuance in existence as required by 30 paragraph (c) of the definition of "employees' organization" in section 2 of this Ordinance

(2) Upon the happening of any of the events mentioned in paragraph (a) or (b) of sub-section (1) of this section, or upon the expiration of the period specified under paragraph 35 (c) of that sub-section, the staff association, employees' association or employees' organization, as the case may be, shall be deemed to be a trade union

(3) In this section the expression "office expense fund" means a fund used solely for the purposes of defraying office 40 rent, the salaries of menial or part-time office staff, the cost of stationery and postage and other office expenses, and not used for defraying the salary of an executive officer or secretary, and a "welfare fund" means a fund used for welfare purposes subject to such restrictions and conditions as may be 45 prescribed by rules made under section 4 of this Ordinance

Supervision
and control of
staff associations,
employees
associations,
and employees'
organizations
Rules

4. (1) Staff associations, employees' associations and employees' organizations shall be under the general super-
vision of the Labour Commissioner

- (2) The Member may make rules— 50
 - (a) regulating the establishment and procedure of staff associations, employees' associations and employees' organizations,
 - (b) prescribing those particulars of such establishment and procedure which are to be notified to the Labour 55 Commissioner and the method of notification thereof,
 - (c) prescribing the records and accounts to be kept of and by such associations and organizations,

- (d) providing for the production and examination of the records, books and accounts of such associations and organizations,
- 5 (e) prescribing the restrictions and conditions with respect to welfare funds maintainable under the provisions of paragraph (a) of sub-section (1) of section 3 of this Ordinance,
- (f) providing by whom any penalty for the breach of any such rule shall be payable, and
- 10 (g) exempting any specified association or organization from the operation of any or all such rules,
- and there may be annexed to the breach of any rule such penalty not exceeding one hundred shillings as the Member may think fit

15 PART III—APPOINTMENT OF REGISTRAR AND OTHER OFFICERS

5. The Governor shall appoint 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 Registrar

20 6. The Governor may appoint 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

Appointment of Assistant Registrars and other officers

25 7. No suit shall lie against any officer appointed under section 5 or section 6 of this Ordinance for anything done or omitted to be done by him in good faith and without negligence and in intended exercise of any power or performance of any duty conferred or imposed by this Ordinance

Protection of officers

PART IV—REGISTRATION

30 8. (1) The Registrar shall keep and maintain in such form as may be prescribed, a register of trade unions in which shall be recorded 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

35 executive thereof or in the situation of the registered office thereof, and all such other matters as may be required to be recorded therein under this Ordinance and any regulation made thereunder

Register of trade unions

40 (2) A copy of any entry in the register certified under the hand of the Registrar shall, until the contrary be shown be received in evidence as proof of the facts specified therein, as on the date of such certified copy

45 9. (1) Every trade union not registered as a trade union before the commencement of this Ordinance (including a trade union deemed to be such under the provisions of sub-section (2) of section 3 of this Ordinance) shall apply to be registered as a trade union under this Ordinance, within a period of three months reckoned from the commencement of this Ordinance or the date of its formation whichever date is

50 later

Necessity for registration

(2) The Registrar may, if he thinks fit, from time to time grant an extension of the period specified in sub-section (1) of this section for any further period or periods not exceeding six months in the aggregate

55 (3) For the purposes of this section a trade union is deemed to be formed on the first date on which more than six employees or employers, as the case may be, agree in

writing to become or to form a trade union or, in the case of a staff association employees' association or employees' organization, on the date when such association or organization is deemed to be a trade union under the provisions of sub-section (2) of section 3 of this Ordinance 5

(4) If any trade union shall fail to apply for registration in accordance with the provisions of this section, the trade union and every officer and every person acting or purporting to act as an officer thereof shall be guilty of an offence against this Ordinance

Application
for registration

10. (1) Every application for registration as 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 10

(2) Uncancelled stamps to the value of two shillings and fifty cents shall be affixed to every such application which shall be accompanied by a copy of the rules of the union and a statement of the following particulars, namely— 15

- (a) the names, identity certificate numbers, occupations and addresses of members making the application,
- (b) the name of the union and the address of its registered office, and 20
- (c) the titles, names, identity certificate numbers ages, and addresses and occupations of the officers of the union 30

Registration as
a trade union
or notification
of deferment of
registration

11. The Registrar, if he is satisfied in respect of all the matters in which he is required by section 16 of this Ordinance to be satisfied, shall register the trade union in the prescribed manner as a registered trade union or, in his discretion, shall defer its registration and notify it accordingly and upon such deferment the trade union shall become a probationary trade union 30

Registration
as a trade union
of a proba-
tionary trade
union

12. After the expiration of three months and before the expiration of twelve months from the date of deferment of registration of any trade union under section 11 of this Ordinance, the Registrar, either on the application of the probationary trade union or of his own motion, shall, if he is satisfied in respect of all the matters in regard to which he is required by section 16 of this Ordinance to be satisfied, register the probationary trade union as a trade union in manner prescribed 40

Certificate of
registration

13 The Registrar on registering a trade union under section 11 or section 12 of this Ordinance, 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 45

Power of
Registrar to
call for further
particulars

14. The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 10 of this Ordinance or that the trade union is entitled to registration under this Ordinance 50

Powers of
Registrar to
require altera-
tion of name

15. 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 55

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

16. (1) The Registrar may, in his discretion, refuse to
5 register any trade union or probationary trade union if he is
satisfied that—

Refusal of
registration

- (a) the union has not complied with the provisions of this Ordinance or of any regulations made thereunder or of its rules, or
 - 10 (b) any one of the principal objects of the constitution of the union is unlawful or conflicts with any such provision, or
 - (c) the union is used for unlawful purposes, or
 - 15 (d) any other trade union already registered is sufficiently representative of the whole or of a substantial proportion of the interests in respect of which the applicants seek registration
- Provided that the Registrar shall, by notice in the Gazette or otherwise, notify any registered trade unions which appear to him to represent the same interests as the applicants of the receipt of such application and shall invite the registered trade unions concerned to submit in writing within a period to be specified in the notice any objections which any such trade unions may wish to make against the registration, or
- 20 (e) the principal purposes of the trade union seeking registration are not in accord with those set out in the definition of "trade union" contained in section 2 of this Ordinance, or
 - 30 (f) the trade union seeking registration is an organization consisting of persons engaged in, or working at, more than one trade or calling, and that its constitution does not contain suitable provision for the protection and promotion of their respective sectional industrial interests, or
 - 35 (g) that the funds of the union are not being applied in accordance with its rules or are being applied in an unlawful manner or upon any unlawful object or any object not authorized by this Ordinance or its rules, or
 - 40 (h) that the accounts of the union are not being properly kept, or
 - 45 (i) the secretary or treasurer of the union is in his opinion, incapable, by reason of not being sufficiently literate in the English language of carrying out adequately the duties of secretary or treasurer, as the case may be

(2) When the Registrar refuses to register a trade union,
50 he shall notify the applicants in writing of the grounds of such refusal, and the following provisions shall have effect—

- (a) if the trade union, before it became a trade union or applied for registration as such, was a staff association, employees' association or employees' organization, it may, within one month of such notification by the Registrar or if an appeal be taken under section 18 of this Ordinance, within one month from the dismissal of such appeal, elect to revert to its former status as such association or organization, and, in default, of such election within the time aforesaid, it shall be dissolved, or
- 55
- 60

(b) if the trade union, before it became a trade union or applied for registration as such, was not such an association or organization as aforesaid, the trade union shall be dissolved as from the date of such notification by the Registrar or, if an appeal be taken as aforesaid and dismissed, as from the date of dismissal of the appeal 5

(3) If any trade union whose dissolution is required by sub-section (2) of this section be not dissolved within the time allowed, then the trade union and every officer and person acting or purporting to act as an officer thereof shall be liable to a fine not exceeding one hundred shillings for every day it remains undissolved, and shall in addition be liable to imprisonment for a term not exceeding one month 10

Cancellation or
suspension of
registration

17. (1) The registration and the certificate of registration of a registered trade union may be cancelled by the Registrar— 15

(a) at the request of the trade union upon its dissolution, to be verified in such manner as the Registrar may require, or 20

(b) if he is satisfied that the trade union has ceased to exist, or has reverted to the status of an association or organization under the provisions of sub-section (2) of section 16 of this Ordinance

(2) The registration and the certificate of registration of a registered trade union may be cancelled or suspended by the Registrar if he is satisfied— 25

(a) that the registration was obtained by fraud, misrepresentation or mistake,

(b) that any of the principal objects of the trade union is unlawful, 30

(c) that the constitution of the trade union or of its executive is unlawful,

(d) that the trade union is being used for any unlawful purpose or for any purpose inconsistent with its objects and rules, 35

(e) that the trade union has wilfully and after notice from the Registrar contravened any provision of this Ordinance or its rules, or allowed any rule to continue in force which is inconsistent with any provisions of this Ordinance, or has rescinded any rule providing for any matter, for which provision is required by section 36 of this Ordinance to be made, or 40

(f) 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 this Ordinance and the rules of the union, or 45

(g) that the trade union being an organization consisting of persons engaged in or working at more than one trade or calling and having a constitution providing for the protection and promotion of the respective sectional industrial interests of its members has failed to carry out those provisions of its constitution 50

Provided that where the registration is suspended under the provisions of this sub-section the Registrar shall, before the expiration of six months from the date of such suspension, either restore the registration or cancel the registration and certificate 55

(3) Except in a case falling within sub-section (1) of this section, not less than two months' previous notice in writing 60

specifying the ground on which it is proposed to cancel its registration shall be given by the Registrar to a trade union before such registration is cancelled, and not less than one month's previous notice in writing specifying the ground upon
5 which it is proposed to suspend its registration shall be given by the Registrar to a trade union before such suspension

(4) A trade union served with a notice under sub-section (3) of this section may, at any time within a period of two months in the case of a notice of cancellation and one month
10 in the case of a notice of suspension, both periods to be reckoned from the date of such notice, show cause in writing against the proposal to cancel or suspend its registration, as the case may be, and, if such cause is shown, the Registrar may hold such inquiry as he may consider necessary in the
15 circumstances

(5) The Registrar may, after the expiration of the period of two months or one month, as the case may be, referred to in sub-section (4) of this section, cancel or suspend the registration of any trade union which has failed to show cause
20 under that sub-section or which, having so shown cause, has failed to satisfy him that its registration should not be cancelled or suspended as the case may be

(6) An order made by the Registrar under this section cancelling or suspending the registration of any trade union
25 shall be dated as of the date on which it was made, shall specify briefly the grounds for the cancellation or suspension of the registration and shall forthwith be served on the trade union affected thereby

18. (1) Any person aggrieved by the refusal of the
30 Registrar to register a trade union as a trade union or by an order made by the Registrar under section 17 of this Ordinance may, within one month of the date of the refusal or order, as the case may be, appeal against such refusal or order to the Supreme Court and, on such appeal, the Supreme
35 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

(2) The Supreme Court may make rules governing such appeals, providing for the method of giving evidence, and
40 prescribing the fees to be paid, the procedure to be followed and the manner of notifying the Registrar of the appeal

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

19. (1) No trade union shall perform any act in
45 furtherance of the purposes for which it has been formed unless application has been made by such trade union for registration in accordance with the provisions of section 10 of this Ordinance

Trade unions prohibited from carrying on business and the consequences of failure to register

Provided that the provisions of this sub-section shall not
50 apply to a person taking part in the management or organization of the trade union or acting on behalf of or as an officer of the trade union for the purpose of—

(i) defending proceedings against the union, or
(ii) dissolving the union and disposing of its funds in
55 accordance with the rules

(2) If any trade union does not apply for registration then the trade union shall not enjoy any of the rights, immunities or privileges of a registered or probationary trade union but shall be subject to any liabilities incurred by the trade union which may be enforced against the trade union

and its assets and the same provisions shall take effect as have effect under sub-section (2) of section 16 of this Ordinance upon a refusal by the Registrar to register a trade union

(3) Any trade union and any officer or person acting or purporting to act as an officer thereof who contravenes the provisions of sub-section (1) of this section shall be liable to a fine not exceeding five hundred shillings and in the case of a continuing offence to a fine not exceeding one hundred shillings for each day during which the offence continues

(4) If any trade union whose dissolution is required by sub-section (2) of this section be not dissolved within the time allowed, then the trade union and every officer and any person acting or purporting to act as an officer thereof shall be liable to a fine not exceeding one hundred shillings for every day it remains undissolved and every officer thereof shall, in addition, be liable to imprisonment for a term not exceeding one month

Consequences
of cancellation
of registration

20. (1) If the registration of any registered trade union is cancelled then—

- (a) the trade union 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 any person acting or purporting to act as an officer 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 for the purpose of supporting, or in connexion with, a strike or lock-out 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

(2) If any trade union be not dissolved within three months, or such extended time as the Registrar may, in his discretion, in any particular case allow, after—

- (a) the date of the order of cancellation made by the Registrar under section 17 of this Ordinance, or
- (b) the date of the dismissal of an appeal taken under the provisions of section 18 of this Ordinance,

as the case may be, then such trade union and every officer and member thereof shall be liable to a penalty of one hundred shillings for every day during which such trade union remains undissolved

(3) Any trade union or any officer or person acting or purporting to act as an officer on behalf of the trade union, who contravenes any of the provisions of paragraph (b) of sub-section (1) of this section and any person who contravenes any of the provisions of paragraph (d) of sub-section (1) of this section shall be liable to a fine not exceeding five hundred shillings and in the case of a continuing offence to a fine not exceeding one hundred shillings for each day during which the offence continues

- 21.** (1) If the registration of any trade union is suspended, then during the period of such suspension—
- Consequences of suspension
- (a) the trade union shall cease to enjoy any of the rights, immunities or privileges of a registered trade union but without prejudice to any liabilities incurred by the union which may be enforced against the union and its assets,
- (b) the union shall not take part, neither shall any of its officers or any person acting or purporting to act as an officer 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 for the purpose of supporting, or in connexion with, a strike or lock-out
- (2) Any trade union which, or any officer or person acting or purporting to act as an officer on behalf of the union who contravenes the provisions of paragraph (b) of sub-section (1) of this section shall be liable to a fine not exceeding five hundred shillings and, in the case of a continuing offence, to a fine not exceeding one hundred shillings for each day during which the offence continues

PART V—RIGHTS AND LIABILITIES

- 22.** (1) Subject to the provisions of sub-section (2) of this section, no trade union shall enjoy any of the rights, immunities or privileges of a registered trade union until it is registered
- Rights, immunities, privileges and obligations of a trade union pending registration
- (2) A probationary trade union shall, pending its registration as a registered trade union, enjoy all the rights, immunities and privileges and be subject to the liabilities and obligations of a registered trade union, except that no probationary trade union shall be entitled to amalgamate with another trade union
- 23.** No suit 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 suit in certain cases
- 24.** (1) A suit against a registered trade union or against any member or officer thereof on behalf of themselves and all other members of such trade union in respect of any tortious act alleged to have been committed by or on behalf of such trade union shall not be entertained by any court
- Liability in tort
- (2) Nothing in this section shall affect the liability of a trade union or any member or officer 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
- 25.** (1) Every trade union shall be liable on any contract entered into by it or by an agent acting on its behalf
- Liability in contract
- Provided that a trade union shall not be so liable on any contract which is void or unenforceable at law
- (2) Nothing in this Ordinance shall enable any court to entertain any legal proceedings instituted with the object of
- Trade union contracts

directly enforcing or recovering damages for the breach of any of the following agreements, namely—

- (a) any agreement between members of a trade union as such, concerning the conditions on which any members for the time being of such union shall or shall not sell their goods transact business, employ or be employed, 5
- (b) any agreement for the payment by any person of any subscription or penalty to a trade union,
- (c) any agreement for the application of the funds of a trade union— 10
 - (i) to provide benefits to members, or
 - (ii) to furnish contributions to any employer or employee not a member of such trade union, in consideration of such employer or employee acting in conformity with the rules or resolutions of such trade union, or 15
 - (iii) to discharge any fine imposed upon any person by sentence of a court of justice,
- (d) any agreement made between one trade union and another, or 20
- (e) any bond to secure the performance of any of the above-mentioned agreements

But nothing in this section shall be deemed to constitute any of the above-mentioned agreements unlawful 25

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

26 The objects of a registered trade union shall not, by reason only that they are in restraint of trade—

- (a) be deemed to be unlawful so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise, or 30
- (b) be unlawful so as to render void or voidable any agreement or trust

Proceedings by and against trade unions

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

(2) An unregistered trade union, a staff association, employees' association or employees' organization may sue and be used and be prosecuted under the name by which it has been operating or is generally known 35

(3) A trade union whose registration has been cancelled or suspended may sue and be sued and be prosecuted under the name by which it was registered 40

(4) Execution for any money recovered from a staff association, employees' association, or employees' organization, or trade union in civil proceedings may issue against any property belonging to or held in trust for the staff association, employees' association, employees' organization or trade union 45

(5) Any fine ordered to be paid by a staff association, employees' association, employees' organization or trade union may be recovered by distress and sale of any property belonging to or held in trust for the staff association, employees' association, employees' organization or trade union in accordance with the provisions of the Criminal Procedure Code 50

PART VI—CONSTITUTION

28. A person under the apparent age of twenty-one but above the apparent age of sixteen may be a member of a staff association, employees' association, employees' organization, probationary trade union or registered trade union, unless provision be made in the rules thereof to the contrary, and may, subject to such rules enjoy all the rights of a member except as in this Ordinance 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 probationary trade union or a registered trade union

Membership of minors

29. (1) All the officers of every trade union shall be persons actually engaged or employed in an industry or occupation with which the union is directly concerned, and no officer of any such union shall be an officer of any other union

Officers of trade union

Provided that—

(a) the Registrar may in his discretion permit the office of secretary or treasurer or both such offices,

(b) the Member may in his discretion permit any other office,

to be filled by an officer not actually engaged or employed in an industry with which the union is directly concerned

(2) No person who has been convicted of any crime involving fraud or dishonesty shall be an officer of a trade union

30. (1) No person shall be a voting member of a trade union unless he is employed or resident within the Colony

Voting members of trade union

(2) No person shall be a voting member of a trade union if his monthly subscription is more than thirteen weeks in arrear

31. Any 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 33 of this Ordinance, change its name

Change of name

32. 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 if, in the case of each such trade union on a secret ballot being taken in the manner prescribed the votes of at least seventy-five per centum of the members entitled to vote thereat are recorded and of the votes recorded those in favour of the proposal exceed by forty per centum or more the votes against the proposal

Amalgamation

Provided that where the trade unions proposing to amalgamate represent more than one trade or calling no amalgamation shall be proceeded with without the sanction of the Member

33. (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 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 probationary trade union is known or 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 provided in sub-section (2) of this section, 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 5 10

(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 would be entitled to be registered under this Ordinance, he shall register the trade union in the prescribed manner and the amalgamation shall have effect from the date of such registration 15

(5) Any persons aggrieved by the refusal of the Registrar to register either a change of 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 a refusal in manner provided by section 18 of this Ordinance 20

Effect of
change of
name or
amalgamation

34. (1) A change in the name of a trade union shall not affect any right or obligation of such trade union or render defective any legal proceeding by or against such 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 25

(2) An amalgamation of two or more registered trade unions shall not prejudice any right of either or any of such trade unions or any right of a creditor of either or any of them 30

Registered
office

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

(2) Notice of the situation of such registered office and of any change thereof or of such postal address 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 35

(3) If any trade union— 40

(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, or 45

(c) fails to give notice of any change of its postal address, then such trade union and every officer thereof shall be liable to a fine not exceeding twenty shillings for every day during which such trade union so operates 50

Rules

36 (1) The rules of every trade union shall provide for all the matters specified in the Schedule to this Ordinance, and shall not be so altered or amended as to cease to contain provision in respect of all such matters 55

(2) A copy of every new rule and of every alteration made in the rules of a 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 upon payment of the prescribed fee 60

(3) Every alteration of the rules of a trade union shall take effect from the date of registration thereof by the Registrar unless some later date is specified in the rules

37. A copy of the rules of a probationary or registered trade union shall be delivered by the trade union to all persons on becoming members of that trade union and to any person entitled to apply to become a member of the union on demand on payment of a sum not exceeding one shilling

Copies of rules

38. Notice of all changes of officers or of the title of any officer shall be prominently exhibited in the registered office of every trade union or in the branch office, as the case may be, 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

Notification of change of officers, etc

39. When a 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

Notification of dissolution

40. (1) The rules of a trade union shall provide for the appointment or election, subject to the approval of the Registrar, of trustees and for the filling, subject to the like approval, of any vacancy in the office of a 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 trade union may be a trustee thereof

PART VII—PROPERTY

41. All property, movable or immovable, of a probationary or 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

All property vested in trustees

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

Devolution of property

PART VIII—FUNDS AND ACCOUNTS

43. The funds of a trade union may, subject to the rules thereof and to the provisions of this Ordinance, 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 for 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 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 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) the 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, and 5
- (g) any other object which by notification in the Gazette the Member may declare to be an object for which such funds may be expended, such expenditure to be subject to such conditions as the Member may by the same or any subsequent notification direct 10

Prohibition of
payment of fines
or penalties

44. The funds of a 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 of justice other than a fine or penalty imposed upon the union under this Ordinance 15

Injunction to
restrain misuse
of funds

45. An injunction restraining any unauthorized or unlawful expenditure of the funds of a trade union may be granted on the application of five 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 20 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 Public Trustee for disposal in accordance with the rules of that trade union

Treasurer to
render accounts

46. (1) Every treasurer of a trade union and every other 25 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 30 at which he may be required to do so by a resolution of the members of the union or by the rules thereof or by the Registrar render to the union and its members or the Registrar, as the case may be, a just and true account of all moneys received and paid by him during the period which has 35 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 40 custody or under his control

(2) The form of account may be prescribed

(3) The account shall be verified by statutory declaration, and the union shall cause the account to be audited by some fit and proper person approved by the Registrar 45

(4) After the account has been audited the treasurer or other officer referred to in sub-section (1) of this section shall if he is resigning or vacating his office or if required by them to do so, forthwith hand over to the trustees of the union such balance as appears to be due from him, and all bonds, 50 securities, effects, books papers, and property of the union in his hands or custody, or otherwise under his control

Annual returns

47. (1) The secretary of every probationary and of every registered trade union shall furnish annually to the Registrar on or before the prescribed date in each year a general state- 55 ment audited in the prescribed manner, of all receipts and expenditure during the period of twelve months ending on the thirty-first day of December next preceding such prescribed date, and of the assets and liabilities of the trade union as at

such thirty-first day of December 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

5 (2) Together with the general statement referred to in sub-section (1) of this section, the secretary of each such trade union shall furnish to the Registrar a copy of all alterations and amendments of rules, and of all new rules, and a list of all changes of officers, made by the union during the period
10 of twelve months preceding the said thirty-first day of December, and a copy of the rules of the trade union in force on that day

(3) In the case of a trade union which was registered before the commencement of this Ordinance, it shall be lawful
15 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 December mentioned in sub-sections (1) and (2) of this section, and, if necessary, some other date for the date
20 prescribed for the purposes of sub-section (1) of this section, and all the provisions of this section shall thereupon apply accordingly in the case of that registered trade union as though the day and the date so substituted were respectively the date referred to in sub-sections (1) and (2) of this section

25 (4) Every member of a trade union to which this section applies shall be entitled to receive free of charge a copy of the general statement referred to in sub-section (1) of this section and the secretary of each such trade union shall deliver a copy of such statement to every member of his union who makes
30 application to him therefor

(5) The secretary of any trade union to which this section applies who fails to comply with any of the requirements of this section shall be liable to a fine not exceeding two hundred shillings

35 (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 sub-sections (1) and (2) of this section shall be liable to imprisonment for a term not exceeding one year

40 **48.** The account books of a 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, and by the Registrar, or any person authorized in that behalf in writing by the
45 Registrar, at any reasonable time

Inspection of
accounts and
documents

49. Any person who opposes, obstructs or impedes the Registrar, or any person authorized by him under section 48 of this Ordinance, in the carrying out of an inspection under the provisions of that section shall be liable to a fine not
50 exceeding five hundred shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment

Obstructing
inspection by
Registrar

50. (1) In addition to any other provisions of this Ordinance relating to the rendering of accounts, the Registrar
55 may, at any time, call upon the treasurer, the committee of management or other proper officer or officers of a trade union to render detailed accounts, vouched in such manner as he may require, of the funds of the trade union or any branch thereof in respect of any particular period, and such
60 accounts shall show in particular such information as the Registrar may require

Power to
require detailed
accounts

(2) Any officer of a trade union who fails to comply with a request made by the Registrar under the provisions of sub-section (1) of this section shall be liable to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment 5

PART IX—PICKETING, INTIMIDATION AND OTHER MATTERS RELATING TO DISPUTES

Definitions

51. In this Part—

“injury” includes injury to a person in respect of his business, occupation employment or other source of income, 10 and includes any actionable wrong

“to intimidate” means to cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or to any of his dependants or of violence or damage to any person or property, 15

Peaceful picketing and prevention of intimidation

Picketing in such numbers, etc., as to be calculated to intimidate

52. Notwithstanding anything contained in this Ordinance—

(a) it shall be lawful for one or more persons to whom this sub-section applies acting on their own behalf or on behalf of a trade union or of an individual 20 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 25 information, or of peacefully persuading any person to work or abstain from working,

(b) it shall not be lawful for one or more persons (whether acting on their own behalf or on behalf of a trade union or of an individual employer or firm, and 30 notwithstanding that they may be acting 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, for the purpose of obtaining or communicating 35 information or of persuading or inducing any person to work or to abstain from working if they so attend in such numbers or otherwise in such manner as to be calculated to intimidate any person in that house or place, or to obstruct the approach thereto or 40 egress therefrom, or to lead to a breach of the peace, and any person who acts in contravention of this sub-section shall be guilty of an offence punishable with a fine not exceeding four hundred shillings, or with imprisonment for a period not exceeding three 45 months

Intimidation or annoyance

53. (1) Every 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— 50

(a) uses violence to or intimidates such other person or his wife 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 55 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 in a disorderly manner in or through any street or road,

5 shall be guilty of an offence punishable with a fine not exceeding four hundred shillings or with imprisonment for a term not exceeding three months

(2) Attending at or near any house or place in such numbers or in such manner as is by sub-section (2) of section 10 52 of this Ordinance declared to be unlawful shall be deemed to be a watching and besetting of that house or place within the meaning of this section

54. (1) An agreement or combination by two or more persons to do or procure to be done any act in contemplation 15 or furtherance of a trade dispute shall not be punishable as a conspiracy if such act committed by one person would not be punishable as a crime

Conspiracy in trade disputes

(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, not be actionable unless 20 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 for which a punishment is 25 awarded by any other Ordinance

(4) Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or sedition, or any offence against His Majesty or the Government of the Colony as by law established

30 **55.** (1) No employer shall make it a condition of employment of any employee that that employee shall neither be nor become a member of a trade union or other organization representing employees in any industry and any such condition in any contract of employment entered into before or 35 after this Ordinance comes into operation shall be void

Freedom of association of employees

(2) No trade union or other organization representing employees in any industry shall prevent or do any act likely to prevent the employment by an employer of any employee who is not a member of a trade union or other such 40 organization

(3) Nothing contained in any law shall prohibit any employee from being or becoming a member of any trade union or organization as aforesaid, or subject him to any penalty by reason of his membership of any such trade union 45 or organization

(4) Any employer who contravenes the provisions of sub-section (1) of this section shall be guilty of an offence against this Ordinance and shall be liable on conviction to a fine not exceeding one thousand shillings or to imprisonment 50 for a term not exceeding one year or to both such fine and imprisonment

(5) Any trade union or other organization representing employees in any industry and any officer or person acting or purporting to act as an officer thereof or any member 55 thereof who contravenes the provisions of sub-section (2) of this section shall be guilty of an offence against this Ordinance and shall be liable on conviction to a fine not exceeding one thousand shillings and any such officer or person acting or purporting to act as an officer and any such member thereof 60 shall in addition be liable to imprisonment for a term not exceeding one year

PART X—REGULATIONS

Regulations

56. (1) The Governor in Council may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1) of this section, the Governor in Council 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, 10
- (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, 15
- (d) the manner in which, and the qualifications of persons by whom, the account 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, 20
- (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, 25
- (h) generally for all matters incidental to or connected with the matters or subjects specifically mentioned in this sub-section 30

PART XI—OFFENCES AND PENALTIES

Penalty for
misuse of money
or property of
a trade union

57. (1) Where on complaint made by the Registrar or by a member of a trade union, it is shown to the satisfaction of a court that any person 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 person to deliver all such property to the trustees of the union and to pay to them the money so unlawfully expended or withheld, and may, in its discretion, suspend any officer of the union 35 40

(2) A complaint made under sub-section (1) of this section shall not be entertained unless the complainant is the Registrar or the court is satisfied that the complainant is or was on the date of the complaint, a member of the trade union in respect of the property of which such complaint is made 45

(3) Any person bound by an order made under sub-section (1) of this section who fails to comply with the terms thereof and the directions given therein within a time to be specified in such order shall be liable on conviction, to a fine not exceeding one thousand shillings 50

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 55

Jurisdiction

59. All offences and penalties under this Ordinance may be prosecuted and recovered before a subordinate court of the first or second class

PART XII—MISCELLANEOUS

60. A member of a trade union not being under the
apparent age of sixteen years may, by writing under his hand,
delivered at, or sent to, the principal office of the trade union,
5 nominate a person not being an officer or servant of the trade
union (unless such officer or servant is the husband, wife,
father, mother, child, brother, sister, nephew, or niece of the
nominator), to whom any moneys payable on the death of
such member shall be paid at his decease, and may from time
10 to time revoke or vary such nomination by a writing under his
hand similarly delivered or sent, and on receiving satisfactory
proof of the death of a nominator, the trade union shall pay
to the nominee any benefits under its constitution due to the
deceased member

Nomination

61. The Companies Ordinance and the Co-operative
Societies Ordinance shall not apply to any trade union and the
registration of any trade union under either of those
Ordinances shall be void

Inapplicability
of certain laws
Cap 288
Cap 287

62. Every summons, notice or other document required
20 to be served on a trade union in any civil or criminal pro-
ceeding 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
25 is otherwise in compliance with the requirements of any
relevant law

Service of legal
process

63. The Registrar shall notify the following facts in the
Gazette—

Notification in
Gazette

- 30 (a) the fact that a trade union has become a probationary
trade union,
(b) the fact that a trade union has been registered or that
registration has been refused,
(c) the fact that registration of any registered trade union
has been cancelled or suspended,
35 (d) the fact that a change of name or amalgamation
affecting any registered trade union has been regis-
tered,
(e) the fact that any registered trade union has been
dissolved

40 **64.** The Trade Unions and Trade Disputes Ordinance
is hereby repealed

Repeal
Cap 117

Provided that any trade union registered under that
Ordinance shall be deemed to have been registered under this
Ordinance

SCHEDULE

(Section 36)

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

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

8 The taking of all decisions in respect of the election of officers, the amendment of rules, strikes, lock-outs, dissolution, and any other matters affecting members of the union generally, by secret ballot

9 The right of any member to a reasonable opportunity to vote

10 The amount of subscription and fees payable by members and the disqualification of a member from voting on any matter concerning the union and from receiving benefits if his subscription is in arrear

11 The conditions under which a person may become an honorary member

12 That the secretary and treasurer of the trade union shall be persons sufficiently literate in the English language to be able adequately to perform the duties of such office

MEMORANDUM OF OBJECTS AND REASONS

This Bill is intended to take the place of the present Trade Unions and Trade Disputes Ordinance. It differs from that Ordinance in the following principal ways —

(1) It provides for the Registrar of Trade Unions to have a discretion as to whether he registers a trade union immediately upon its application for registration or defers its registration for a probationary period not exceeding twelve months. A union whose registration is thus deterred becomes a probationary trade union (clause 11) and to it attaches most of the rights and liabilities of a registered trade union (clause 22 (2)). At the end of the probationary period the Registrar must register the probationary trade union if he is satisfied of the matters in regard to which he is required by section 16 of the Ordinance to be satisfied (clause 12).

(2) It gives the Registrar power to suspend a registered trade union under certain circumstances.

(3) It gives the Registrar wider powers of inspection of a trade union's accounts.

(4) It provides for the notification of the formation of staff associations, employees' associations and employees' organizations, and for their general control by the Labour Commissioner.

The Bill is divided into twelve parts.

Part I is concerned with the short title, the date of commencement and interpretation.

Clause 2 defines, amongst other expressions, a "trade union", a "probationary trade union", a "registered trade union", an "employees' association", an "employees' organization" and a "staff association".

The difference between an employees' association and an employees' organization is that whereas in an employees' association employees all work for the same employer and are employed in the same trade or industry, in an employees' organization the employees work for different employers or for the same employer in different trades or industries. An employees' organization is required to obtain the approval in writing of the Labour Commissioner to its continuance as such. Staff associations are confined to associations of employees employed in a civilian capacity under the Crown or a local authority or local authorities.

Part II provides for the supervision and control of staff associations, employees' associations and employees' organizations under the general supervision of the Labour Commissioner. It provides that these associations shall not, by reason only of their having as their principal object or as one of their principal objects the regulation of relations between employees and an employer or employers or between employees and employees, be deemed to be trade unions for the purposes of the Bill, unless there is a collection or contribution to their funds other than for an office fund or a welfare fund, or unless application is made to be registered as a trade union or they have been required by the Registrar to register as a trade union.

This Part also provides for the Member to make rules—

- (a) regulating the establishment and procedure of such associations and organizations,
- (b) prescribing those particulars of that establishment and procedure which must be notified to the Labour Commissioner and the method of notification thereof,
- (c) prescribing the records and accounts to be kept of and by such associations

Part III provides for the appointment, by the Governor, of a Registrar of Trade Unions and, if necessary, for one or more Assistant Registrars of Trade Unions

Part IV provides that a register of trade unions shall be kept by the Registrar. It also deals with the necessity for registration and with the application for registration of a trade union

As mentioned above, the Registrar is, under clause 11, empowered to register the trade union as a trade union or to defer its registration and notify the union that it is regarded as a probationary trade union

Clause 12 provides that after the expiration of three months and before the expiration of six months from the date of deferment of such registration, the Registrar shall register the probationary trade union in the prescribed manner, provided that he is satisfied as to the matters in regard to which he is required by clause 16 to be satisfied

In *clause 16* the matters are set out in regard to which the Registrar must be satisfied before he registers a trade union. The clause also sets out what are the consequences of a refusal to register a trade union. If the trade union, before it became a trade union was a staff association, employees' association or employees' organization it is, on refusal of registration, to elect whether to revert to its former status as such association or organization, or in default of election to be dissolved. If the trade union, before it became a trade union or applied for registration, was not such association or organization, it must, on refusal of registration, be dissolved

Clause 18 provides for an appeal to the Supreme Court by any person aggrieved either by the refusal of the Registrar to register the trade union as a trade union or by any other similar order made by the Registrar

Clause 19 provides that no trade union may carry on the business of a trade union unless it has applied for registration in accordance with the provisions of clause 10 of the Bill. It further provides that if any trade union does not apply for registration, it shall not enjoy any of the rights, immunities or privileges of a registered trade union, but shall be subject to any liabilities incurred, which may be enforced against the union and its assets. The clause goes on to provide for penalties where any trade union or any officer or member contravenes the provisions of the section

By *clause 20*, if the registration of any registered trade union is cancelled, that union will cease to enjoy any of the rights, immunities or privileges, and will not be able to take part in any trade dispute or promote or organize any strike or lock-out. It will be dissolved and its funds disposed of in accordance with its rules. The clause further provides that if the union is not dissolved within three months of such cancellation or within such extended time as the Registrar may allow, or within three months of the date of dismissal of an appeal, as the case may be, then such union and every officer and member thereof shall be liable to a penalty of one hundred shillings for every day on which such union remains undissolved

Clause 21 provides that a trade union, if it is registered, may be suspended and that during the period of suspension the trade union shall cease to enjoy any of the rights, immunities and privileges of a registered trade union but it remains subject to any liabilities incurred. It is not able to take part in a trade dispute or organize or finance a strike

Part V sets out the rights, immunities, privileges and obligations of a registered trade union and a probationary trade union pending registration. It reproduces the provisions of the existing Ordinance and is familiar law

Part VI deals with the constitution of associations, organizations and trade unions and with the membership of minors

Clause 29 provides that all officers of a trade union shall be persons actually engaged or employed in an industry or occupation with which the union is directly concerned and also that no such officer shall be an officer of any other union, subject, however, to a proviso

giving a discretion to the Registrar to permit the post of secretary or treasurer or both such posts to be filled by a person not actually engaged in such industry, and to the Member to permit any other post so to be filled

This Part also provides who shall be voting members of a trade union, for the conditions under which a change of name may be made, for the conditions under which amalgamation of two or more registered trade unions may be effected and for the action required consequent upon change of name or amalgamation

Clause 35 provides that every trade union shall have a registered office to which all communications and notices may be addressed and that any change in its situation shall be notified to the Registrar

Clause 36 provides for the action to be taken by the union in regard to its rules. Notification of change of office and of dissolution are also provided for in *clauses 38 and 39*

Clause 40 provides that trustees shall be appointed for a trade union

Part VII provides that property of a trade union is to be vested in trustees of the union and deals with the devolution of such property

Part VIII provides how the funds and accounts of a trade union shall be administered. *Clause 43* makes specific provision that funds can be expended only for certain objects set out in the clause

Clause 46 requires that the treasurer of a trade union or officer responsible for the accounts shall, on vacating this office, render an account of all the moneys and other property in his care

Clause 47 provides that annual returns shall be furnished to the Registrar together with a general statement of accounts audited in the manner prescribed

Clause 48 provides that the accounts 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, and also by the Registrar, or any person authorized in writing by the Registrar, at any reasonable time

In addition, under *clause 50*, the Registrar may at any time call upon the treasurer or the committee of management or other proper officer to render detailed accounts, vouched in such manner as he might require, of the funds of the union or any other property thereof in respect of any particular period

Part IX deals with picketing, intimidation and other matters relating to disputes and is familiar law

By *Part X* the Governor in Council is empowered to make regulations

Part XI provides penalties for misuse of money or property of a trade union

Part XII contains miscellaneous provisions relating to notices and the like

It is possible that if the provisions of this Bill become law a small additional expenditure of public moneys will in course of time be incurred

Nairobi,
22nd December 1951

JOHN WHYATT,
Attorney General