

complaints is filed by such emigrant or intended emigrant, or, on behalf of such emigrant or intended emigrant, by the father, mother, husband, wife or guardian of such emigrant or intended emigrant or, if such emigrant or intended emigrant is a member of a joint Hindu family, by the manager of that family.

29. All the powers for the time being conferred by law on officers of sea-customs, with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

Power for
Customs-
officer to
search and
detain for
purposes of
Act.

CHAPTER VII.

SUPPLEMENTAL.

30. (1) The departure by land out of the Union of Burma of any person under, or with a view to entering into, an agreement to work for hire, or when assisted, otherwise than by a relative, so to depart for the purpose or with the intention of working for hire or engaging in agriculture, in any country beyond the sea, is prohibited.

Prohibition
of departure
by land
under an
agreement to
work for
hire in some
country
beyond the
sea.

(2) Whoever departs, or attempts to depart, by land out of the Union of Burma in contravention of this section shall be deemed to have committed an offence under sub-section (1) of section 25.

(3) Whoever causes or assists, or attempts to cause or assist, any person to depart by land out of the Union of Burma in contravention of this section shall be deemed to have committed an offence under sub-section (2) of section 25.

CHAPTER VIII.

SAVINGS.

31. Nothing in this Act shall be deemed to apply to the departure out of the Union of Burma of any person who is not a citizen of the Union of Burma or any person enrolled under the Burma Army Act.

Application
of Act.

² 32. * * * *

THE TRADE UNIONS ACT.

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² Omitted *ibid.*

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THE TRADE UNIONS ACT.

[INDIA ACT XVI, 1926.] (1st June, 1927.)

CHAPTER I.**PRELIMINARY.**

1 1. This Act shall extend to the whole of the Union of Burma. Extent.

2. In this Act, unless there is anything repugnant in the subject or Definitions.
context,—

- (a) "executive" means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted ;
- (b) "officer", in the case of a Trade Union, includes any member of the executive thereof, but does not include an auditor ;
- (c) "prescribed" means prescribed by regulations made under this Act ;
- (d) "registered office" means that office of a Trade Union which is registered under this Act as the head office thereof ;
- (e) "registered Trade Union" means a Trade Union registered under this Act ;
- ² (f) "Registrar" means the Registrar of Trade Unions appointed under sub-section (1) of section 3 ; and "Assistant Registrar" means an Assistant Registrar of Trade Unions appointed under sub-section (2) of section 3 ;
- (g) "trade dispute" means any dispute between employers and workmen, or between workmen and workmen, or between employers and employers, which is connected with the employment or non-employment, or the terms of employment or the conditions of labour, of any person, and "workmen" means all persons employed in trade or industry, whether or not in the employment of the employer with whom the trade dispute arises ; and
- (h) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions :

Provided that this Act shall not 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 ; or

¹ Inserted by Act XVI, 1949, which came into force on 1st August 1949.

² Substituted *ibid.*

- (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

CHAPTER II.

REGISTRATION OF TRADE UNIONS.

Appoint-
ment of Re-
gistrar.

3. ¹(1) The President of the Union shall appoint a person to be the Registrar of Trade Unions for the Union of Burma.

¹(2) The President of the Union may appoint a person to be an Assistant Registrar of Trade Unions for any local area, and may, by general or special order, confer on him all or any of the powers of the Registrar under this Act.

Mode of
registration.

4. Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act.

Application
for regis-
tration.

5. (1) Every application for registration of a Trade Union shall be made to the Registrar, and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars, namely :—

- (a) the names, occupations and addresses of the members making the application ;
- (b) the name of the Trade Union and the address of its head office ;
- (c) the titles, names, ages, addresses and occupations of the officers of the Trade Union ; and
- ²(d) the total number of members of the Trade Union.

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars as may be prescribed.

Provisions
to be con-
tained in
the rules of
a Trade
Union.

6. A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely :—

- (a) the name of the Trade Union ;
- (b) the whole of the objects for which the Trade Union has been established ;
- (c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act ;
- (d) the maintenance of a list of the members of the Trade Union and adequate facilities for the inspection thereof by the officers and members of the Trade Union ;

¹ Original section 3 was re-numbered as sub-section (1) thereof and sub-section (2) was inserted by Act XVI, 1949.

² Inserted *ibid.*

- (e) the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary members as officers required under section 22 to form the executive of the Trade Union ;
- (f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members ;
- (g) the manner in which the rules shall be amended, varied or rescinded ;
- (h) the manner in which the members of the executive and the other officers of the Trade Union shall be appointed and removed ;
- (i) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the officers and members of the Trade Union ; and
- (j) the manner in which the Trade Union may be dissolved.

7. (1) The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.

Power to call for further particulars and to require alteration of name.

(2) 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 the public or the members of either Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application, and shall refuse to register the Union until such alteration has been made.

8. The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act in regard to registration, shall register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

Registration.

9. The Registrar, on registering a Trade Union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the Trade Union has been duly registered under this Act.

Certificate of registration.

10. A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar—

Cancellation of registration.

- (a) on the application of the Trade Union to be verified in such manner as may be prescribed, or
- (b) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the Trade Union has ceased to

exist, or has wilfully and after notice from the Registrar contravened any provision of this Act, or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by section 6 :

Provided that not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union.

Appeal.

11. (1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal—

- (a) where the head office of the Trade Union is situated within the limits of Rangoon, to the High Court, or
- (b) where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal civil Court of original jurisdiction, as the President of the Union may appoint in this behalf for that area.

(2) The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9, or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(3) For the purpose of an appeal under sub-section (1) an appellate Court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code.

(4) In the event of the dismissal of an appeal by any Court appointed under clause (b) of sub-section (1), the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose of such appeal, have all the powers of an appellate Court under sub-sections (2) and (3), and the provisions of those sub-sections shall apply accordingly.

Registered office.

12. All communications and notices to a registered Trade Union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing, and the changed address shall be recorded in the register referred to in section 8.

Incorporation of registered Trade Unions.

13. Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal, with power to acquire and hold both moveable and immoveable property and to contract, and shall by the said name sue and be sued.

14. The following Acts, namely:—

- (a) The Societies Registration Act,
- (b) The Co-operative Societies Act,
- (c) The Provident Insurance Societies Act,
- (d) The Life Assurance Companies Act, and
- (e) The Burma Companies Act,

Certain
Acts not to
apply to re-
gistered
Trade
Unions.

shall not apply to any registered Trade Union, and the registration of any such Trade Union under any such Act shall be void.

CHAPTER III.

RIGHTS AND LIABILITIES OF REGISTERED TRADE UNIONS.

15. The general funds of a registered Trade Union shall not be spent on any other objects than the following, namely:—

Objects on
which gen-
eral funds
may be
spent.

- (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 general 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 ;
- (g) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment ;
- (h) the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members ;
- (i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such ;
- (j) the payment, in furtherance of any of the objects on which the general funds of the Trade Union may be spent, of contributions to any cause intended to benefit workmen in general : provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year

be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year : and

- (k) subject to any conditions contained in the notification, any other object notified by the President of the Union in the Gazette.

Constitution
of a sepa-
rate fund
for political
purposes.

16. (1) A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2).

(2) The objects referred to in sub-section (1) are :—

- (a) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of the Union Parliament or of any local authority, before, during, or after the election in connection with his candidature or election ; or
- (b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate ; or
- (c) the maintenance of any person who is a member of the Union Parliament or of any local authority ; or
- (d) the registration of electors or the selection of a candidate for the Union Parliament or for any local authority ; or
- (e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

(3) No member shall be compelled to contribute to the fund constituted under sub-section (1) : and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund : and contribution to the said fund shall not be made a condition for admission to the Trade Union.

Criminal
conspiracy
in trade
disputes.

17. No officer or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Penal Code in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence.

Immunity
from civil
suit in cer-
tain cases.

18. (1) 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 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.

(2) A registered Trade Union shall not be liable in any suit or other legal proceeding in any civil Court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.

19. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade :

Enforce-ability of agreements.

Provided that nothing in this section shall enable any civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

20. The account books of a registered Trade Union and the list of members thereof shall be open to inspection by an officer or member of the Trade Union at such time as may be provided for in the rules of the Trade Union.

Right to inspect books of Trade Union.

21. Any person who has attained the age of fifteen years may be a member of a registered Trade Union subject to any rules of the Trade Union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules :

Rights of minors to membership of Trade Unions.

Provided that no person who has not attained the age of eighteen years shall be an officer of any such Trade Union.

22. Not less than one-half of the total number of the officers of every registered Trade Union shall be persons actually engaged or employed in an industry with which the Trade Union is connected :

Proportion of officers to be connected with the industry.

Provided that the President of the Union may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

23. Any registered Trade Union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 25, change its name.

Change of name.

24. Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them, provided that the votes of at least one-half of the members of each or every such Trade

Amalgamation of Trade Unions.

Union entitled to vote are recorded, and that at least sixty per cent of the votes recorded are in favour of the proposal.

Notice of
change of
name or
amalgama-
tion.

25. (1) Notice in writing of every change of name and of every amalgamation, signed, in the case of a change of name, by the Secretary and by seven members of the Trade Union changing its name, and, in the case of an amalgamation, by the Secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar.

(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 provided in sub-section (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 register referred to in section 8, and the change of name shall have effect from the date of such registration.

(4) The Registrar shall, if he 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 6, register the Trade Union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

Effects of
change of
name and
of amalga-
mation.

26. (1) The change in the name of a registered Trade Union shall not effect any rights or obligations of the 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 by its former name may be continued or commenced by or against it by its new name.

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

Dissolution.

27. (1) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the Secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

Returns.

28. (1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union

during the year ending on the 31st day of March next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of March. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement there shall be sent to the Registrar a statement showing all changes of officers made by the Trade Union during the year to which the general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of the despatch thereof to the Registrar.

(3) A Copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of alteration.

CHAPTER IV.

REGULATIONS.

29. (1) The President of the Union may make regulations for the purpose of carrying into effect the provisions of this Act. Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the manner in which Trade Unions and the rules of Trade Unions shall be registered and the fees payable on registration ;
- (b) * * * *
- (c) the manner in which, and the qualifications of persons by whom, the accounts of registered Trade Unions or of any class of such Unions shall be audited ;
- (d) the conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections ; and
- (e) any matter which is to be or may be prescribed.

30. (1) The power to make regulations conferred by section 29 is subject to the condition of the regulations being made after previous publication. Publication of regulations.

(2) The date to be specified in accordance with the Burma General Clauses Act as that after which a draft of regulations proposed to be made will be taken into consideration shall not be less than three months from the date on which the draft of the proposed regulations was published for general information.

(3) Regulations so made shall be published in the Gazette, and on such publication shall have effect as if enacted in this Act.

CHAPTER V.

PENALTIES AND PROCEDURE.

Failure to
submit re-
turns.

31. (1) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any provision of this Act, every officer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such officer or person, every member of the executive of the Trade Union, shall be punishable with fine, which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues :

Provided that the aggregate fine shall not exceed fifty rupees.

(2) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28, or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which may extend to five hundred rupees.

Supplying
false in-
formation
regarding
Trade
Unions.

32. 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 to the same, 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 punishable with fine which may extend to two hundred rupees.

Cognizance
of offences.

33. (1) No Court inferior to that of a Magistrate of the first class shall try any offence under this Act.

(2) No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made by, or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

THE TRADE DISPUTES ACT.

[INDIA ACT VII, 1929.] (8th May, 1929.)

Extent.

1. This Act shall extend to the whole of the Union of Burma.

Interpreta-
tions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Board" means a Board of Conciliation constituted under this Act ;

(b) "Court" means a Court of Inquiry constituted under this Act ;

¹ Inserted by Act, X, 1950.