

# TRADE UNION ACT 1959 (ACT 262)

## 1. Short title.

This Act may be cited as the Trade Unions Act 1959.

## PART I

### PRELIMINARY

## 2. Interpretation.

(1) In this Act, unless the context otherwise requires or it is otherwise expressly provided-

"Director General for Industrial Relations" means Director General as appointed under section 2A (1) of the Industrial Relations Act 1967

*[Ins. Act A717]*

"employee", when used with reference to a trade union or political party means any person who is engaged for hire or reward on a full-time or part-time basis;

"employer" means any person or body of persons, whether corporate or unincorporate, who employs a workman, and includes the Government and any statutory authority;

"establishment" means any place of business or employment belonging on an employer and includes any division or branch thereof;

*[Ins. Act A732]*

"executive" means the body, by whatever name called, to which the management of the affairs of a trade union or of any branch thereof is entrusted;

"funds", when used in relation to the funds of a trade union includes all moneys collected or received by the trade union or any branch thereof from any source, including the proceeds of any investment or other thing done under section 49(1);

"Government" means the Federal Government or the Government of a State;

"levy " means any mandatory contribution, other than members' entrance fee or subscription, which is imposed by a trade union on its members;

*[Ins. Act A1324]*

"lock-out" means-

- (a) the closing of a place of employment;
- (b) the suspension of work; or
- (c) the refusal by an employer to continue to employ any number of workmen employed by him,

in furtherance of a trade dispute, done with a view to compelling those workmen to accept terms or conditions of or affecting employment;

"Minister" means the Minister charged with responsibility for human resources;

*[Am. Act A1324]*

"office-bearer", when used with reference to a political party, means any person who is the president, vice-president, secretary, assistant secretary, treasurer or assistant treasurer of the political party, or who holds any office or position, by whatever name called, which is analogous to any of those mentioned above, or who holds any office or position in the political party whereby he exercises management or control of the affairs of the political party;

"officer", when used with reference to a trade union, means any member of the executive thereof, but does not include an auditor;

"Peninsular Malaysia" has the meaning assigned thereto in section 3 of the Interpretation Act 1948 and 1967 [Act 388], and includes the Federal Territories of Kuala Lumpur and Labuan;

"person " means an individual, corporation, statutory authority, society, trade union, co-operative society, firm and any other body, organization, association or group of persons, whether corporate or unincorporate;

*[Ins. Act A1324]*

"public officer" means a person in the permanent or temporary employment of any Government in Malaysia;

"register" means the register of trade unions maintained by the Director General under section 7;

*[Am. Act A 717]*

"registered office" means that office of a trade union which is registered under this Act as the head office of the trade union;

trade+union'>"registered trade union" means a trade union registered under this Act;

"Registrar" means the Registrar of Trade Unions appointed under section 3, and includes a Deputy Registrar, a Senior Assistant Registrar, an Assistant Registrar of Trade Unions, and a Trade Unions Registration Office, appointed under section 4;

"regulations" means regulations made under section 58;

"statutory authority" means any authority or body established, appointed or constituted by any written law, and includes any local authority;

"strike" means the cessation of work by a body of workmen acting in combination, or a concerted refusal or a refusal under a common understanding of a number of workmen to continue to work or to accept employment, and includes any act or omission by a body of workmen acting in combination or under a common understanding, which is intended to or does result in any limitation, restriction, reduction or cessation of, or dilatoriness in, the performance or execution of the whole or any part of the duties connected with their employment;

trade+dispute'>"trade dispute" means any dispute between an employer and his workmen which is connected with the employment or nonemployment or the terms of employment or the conditions of work of any such workmen;

trade+union'>"trade union" or "union" means any association or combination of workmen or employers, being workmen whose place of work is in West Malaysia, Sabah or Sarawak as the case may be, or employers employing workmen in West Malaysia, Sabah or Sarawak, as the case may be-

*[Am. Act A717]*

(a) within any particular establishment trade, occupation or industry or within any similar trades occupations or industries: and

*[Am. Act A732]*

(b) whether temporary or permanent; and

(c) having among its objects one or more of the following objects-

(i) the regulation of relations between workmen and employers, for the purposes of promoting good and harmonious industrial relations between workmen and

employers, improving the working conditions of workmen or enhancing their economic and social status, or increasing productivity;

*[Am. Act A717]*

(ia) the regulation of relations between workmen and workmen, or between employers and employers;

*[Ins. Act A717]*

(ii) the representation of either workmen or employers in trade disputes;

(ia) the conducting of, or dealing with, trade disputes and matters related thereto; or

(iii) the promotion or organisation or financing of strikes or lock-outs in any trade or industry or the provision of pay or other benefits for its members during a strike or lock-out;

"trustees" means the trustees appointed under the rules of a registered trade union made in accordance with section 43;

"workmen" means any person, including an apprentice, employed by an employer under a contract of employment to work for hire or reward and for the purposes of any proceedings in relation to a trade dispute includes any such person who has been dismissed, discharged or retrenched in connection with or as a consequence of that dispute or whose dismissal, discharge or retrenchment has led to that dispute.

(2) For the purposes of the DEFINITION of "trade union" in subsection (1) and for the purposes of sections 32, 33, 72 and 74, "similar" means similar in the opinion of the Director General.

### **3. Appointment of Director General.**

(1) The Yang di-Pertuan Agong shall appoint a Director General of Trade Unions who shall have the general supervision, direction and control of all matters relating to trade unions throughout Malaysia.

(2) In the absence of the Director General of Trade Unions, the Deputy Director General shall have all powers and may discharge all duties and perform all functions conferred on

the Director General of Trade Unions under this Act.

## **PART II**

### ***APPOINTMENT OF DIRECTOR GENERAL AND OTHER OFFICERS***

#### **4. Appointment of Deputy Director General and other officers.**

(1) The Yang di-Pertuan Agong may appoint one or more Deputy Director Generals, Directors, Deputy Directors, Senior Assistant Directors and Assistant Directors of Trade Unions, Trade Unions Officers and such other officers as may from time to time be required for the purposes of this Act.

*[Am. Act A1324]*

(2) Subject to such limitations, if any, as may be prescribed by regulations, any Director General appointed under subsection (1) shall perform all the duties and functions imposed and may exercise all the powers conferred upon the Director General under this Act, and every duty and function so performed and power so exercised shall be deemed to have been duly performed and exercised for the purposes of this Act.

## **PART II**

### ***APPOINTMENT OF DIRECTOR GENERAL AND OTHER OFFICERS***

#### **4A. Powers of Director General.**

In addition to the powers, duties and functions conferred on the Director General by this Act and any regulations, the Director General shall have and may exercise all such powers, discharge all such duties and perform all such functions as may be necessary for the purposes of giving effect to and carrying out the provisions of this Act.

## **PART II**

### ***APPOINTMENT OF DIRECTOR GENERAL AND OTHER OFFICERS***

#### **5. All officers to be public servants.**

All officers appointed under sections 3 and 4 shall be deemed to be public servants for the purposes of the Penal Code.

## **PART II**

### ***APPOINTMENT OF DIRECTOR GENERAL AND OTHER OFFICERS***

#### **6. Protection of public servants.**

No suit shall lie against any public servant for anything done or omitted to be done by him in good faith without negligence and in intended exercise of any power or performance of any duty provided or imposed by this Act

## **PART III**

### ***REGISTRATION***

#### **7. Register of trade unions.**

(1) The Director General shall keep and maintain in such form as may be prescribed, a register of trade unions in which shall be registered-

(a) the prescribed particulars relating to any registered trade union;

(b) any alteration or change which may from time to time be effected in such particulars; and

(c) all such other matters as may be required to be registered therein under this Act.

(2) A certified copy of any entry in the register shall be conclusive proof of the facts specified therein as on the date of such certified copy.

## **PART III**

### ***REGISTRATION***

#### **8. Necessity for registration.**

(1) Every trade union established after the commencement of this Act shall apply to be registered under this Act within a period of one month reckoned from the date on which it is so established.

(2) The Director General may, if he thinks fit, from time to time grant an extension of the

period specified in subsection (1);

Provided that such period shall not in any particular case, be so extended as to exceed a period of six months in the aggregate.

### **PART III**

#### **REGISTRATION**

##### **9. Date of establishment of trade union.**

(1) For the purposes of this Act, a trade union is established on the first date on which any workmen or employers agree to become or to create an association or combination within any particular establishment, trade, occupation or industry, and whether temporary or permanent, for the furtherance of any one or more of the objects specified in the DEFINITION of a trade union in section 2.

(2) For the purpose of prosecuting any trade union which fails to apply for registration under section 8, the date of establishment of that trade union shall, in the absence of proof of the date referred to in subsection (1), be deemed to be-

*(a)* the date on which any person is proved to have been accepted or admitted as a member of that trade union; or

*(b)* the date on which any act is proved to have been done by that trade union in furtherance of any one or more of the objects specified in the DEFINITION of a trade union in section 2;

and in a case where proof is available of both the dates referred to in paragraphs *(a)* and *(b)*, the earlier of such dates shall be deemed to be the date of the establishment of that trade union.

### **PART III**

#### **REGISTRATION**

##### **10. Application for registration.**

(1) Every application for registration of an association, combination or society as a trade union shall be made to the Director General in the prescribed form, and shall be signed by at least seven members of the union, any of whom may be officers thereof.

(2) Every application under subsection (1) shall be accompanied by such fee as may be prescribed, and by a printed copy in the national language of the rules of the trade union signed by the members of the trade union making the application and a statement of the

following particulars, namely-

*[Am. Act A1324]*

- (a) the names, occupations and addresses of the members making the application;
- (b) the name of the trade union and the addresses of its head office; and
- (c) the titles, names, ages, addresses and occupations of the officers of the trade union, and such other information regarding such officers as the Director

General may in any particular case require to be furnished.

### **PART III**

#### **REGISTRATION**

##### **11. Temporary provisions relating to collection of funds.**

Between the date of establishment of a trade union under section 9 and the date of any certificate issued under section 13 or the date of the receipt by the person or persons making the application of notice in writing from the Director General that the trade union has been refused registration, as the case may be, no person shall organise or take part in any collection of money or other property for or on behalf of such trade union without the prior written permission of the Director General and subject to such conditions as may be specified by the Director General.

(2) & (3) *(Repealed)*.

### **PART III**

#### **REGISTRATION**

##### **12. Registration.**

(1) The Director General may, upon receiving any application under section 10, and subject to this section, register the trade union in the prescribed manner.

(2) The Director General may refuse to register a trade union in respect of a particular establishment, trade, occupation or industry if he is satisfied that there is in existence a trade union representing the workmen in that particular establishment trade, occupation or industry and it is not in the interest of the workmen concerned that there be another trade union in respect thereof.



(3) The Director General shall refuse to register a trade union if-

- (a) he is of the opinion that the trade union is likely to be used for unlawful purposes or for purposes contrary to or inconsistent with its objects and rules;
- (b) any of the objects of the trade union is unlawful;
- (c) he is not satisfied that the trade union has complied with this Act and of the regulations;
- (d) he is satisfied that the objects, rules, and constitution of the trade union conflict with any of the provisions of this Act or of any regulations; or
- (e) the name under which the trade union is to be registered is-
  - (i) identical to that of any other existing trade union, or so nearly resembles the name of such other trade union as, in the opinion of the Director General, is likely to deceive the public or the members of either trade union; or
  - (ii) in the opinion of the Director General, undesirable,

unless the trade union alters its name to one acceptable to the Director General.

### **PART III**

#### **REGISTRATION**

#### **13. Certificate of registration.**

The Director General, on registering a trade union under section 12 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 Act.

### **PART III**

#### **REGISTRATION**

#### **14. Power of Director General to call for further particulars.**

The Director General may call for further information for the purpose of satisfying himself that any application complies with this Act and of any regulations made thereunder or that

the trade union is entitled to registration under this Act.

### **PART III**

#### **REGISTRATION**

##### **15. Cancellation of registration.**

(1) A certificate of registration of a trade union may be cancelled or withdrawn by the Director General-

(a) at the request of the trade union upon its dissolution to be verified in such manner as the Director General may require;

(b) if he is satisfied-

(i) that the certificate of registration was obtained or issued by fraud or mistake;

(ii) that any one of the objects or rules of the trade union is unlawful;

(iii) that the constitution of the trade union or of its executive is unlawful;

(iv) that the union has been or is being or is likely to be used for any unlawful purposes or for any purpose contrary to its objects or rules;

(v) that the trade union has contravened any provision of this Act or of any regulations made thereunder, or of any of its rules, or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter for which provision is required by section 38;

(vi) that the funds of the trade union are or have been expended in an unlawful manner or on an unlawful object or on an object not authorized by the rules of the union;

(vii) that the trade union has ceased to exist; or

(c) upon the amalgamation of the trade union under subsection 34(4) or the dissolution of the trade union under section 42.

*[Ins. Act A1324]*

(2) Where two or more registered trade unions exist in a particular establishment, trade, occupation or industry, as the case may be, the Director General may, if he is satisfied that it is in the interest of the workmen in that establishment, trade, occupation or industry so to do-

*[Am. Act A717; A732]*

(a) cancel the certificate of registration of the trade union or trade unions other than the trade union which has the largest number of workmen in the said establishment, trade, occupation, or industry as its members; or

(b) issues an order requiring the trade union or trade unions other than the trade union which has the largest number of workmen in the said trade, occupation, industry or place of employment as its members to remove from the membership register those members as are employed in that establishment, trade, occupation or industry and thereafter the trade union or trade unions so ordered shall not enroll as members workmen in that establishment, trade, occupation or industry, except with the permission in writing of the Director

General; an order under this paragraph shall have full force and effect notwithstanding any provision of the rules of the trade union concerned.

(2A) Where the Director General proposes to cancel or withdraw the certificate of registration of any trade union under subsection (1) (b) or subsection (2) (a), he shall give to the trade union not less than thirty days previous notice in writing specifying the ground on which it is proposed to cancel or withdraw its certificate of registration before such certificate is cancelled or withdrawn.

(2B) Where the Director General proposes to issue an order to any trade union under subsection (2) (b), he shall prior to the issue of such order, notify the trade union of his intention to do so, and shall give it an opportunity to submit such representations as it may wish to make against such order being issued.

(3) A trade union served with a notice under subsection (2A) may, at any time within the period of thirty days reckoned from the date of such notice, show cause in writing against the proposal to cancel its certificate of registration; and, if such cause is shown, the Director General may hold such enquiry as he may consider necessary in the circumstances.

(4) The Director General may, after the expiration of the period of thirty days referred to in subsection (3), cancel the certificate of registration of any trade union which has failed duly to show cause under that subsection, or which, having so shown cause, has failed to satisfy him that its certificate of registration should not be cancelled.

(5) An order made by the Director General under this section cancelling the certificate of registration of any trade union shall be dated as on the date on which it was made, shall specify briefly the grounds for the cancellation of the certificate of registration and shall

forthwith be served on the trade union affected thereby.

(6) *(Repealed)*.

### **PART III**

#### **REGISTRATION**

#### **16. Prohibition on activities during period of notice of intended cancellation or determination of appeal.**

(1) The Director General may, on or after the giving of any notice referred to in section 15 (2A), order that any trade union to which such notice is addressed shall be prohibited from carrying on such activities as he may specify in such order for such period as may be specified in such order.

(2) A notification of every order made under this section shall be published in the *Gazette* and a copy of the order shall be served on the trade union concerned or shall be affixed in a conspicuous manner on any building occupied by such trade union and at the nearest police station of the police district in which such building exists.

### **PART III**

#### **REGISTRATION**

#### **17. Suspension of a branch of a trade union.**

(1) The Director General may, if he is satisfied that a branch of a trade union has contravened the provisions of this Act or the rules of the union, by order direct the suspension of such branch.

(2) The order of suspension made under subsection (1)-

(i) may contain such directions as the Registrar may consider expedient; and

(ii) 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 any officer of the branch.

(3) The order of suspension may at any time be revoked by the Director General.

(4) Until the order of suspension is revoked by the Director General, the branch of the trade union in respect of which the order of suspension is made, shall be prohibited from

carrying on any activity, except as may be specified in the order of suspension.

### PART III

#### REGISTRATION

#### 18. Power of the Minister to suspend a trade union.

(1) Notwithstanding anything in this Act, it shall be lawful for the Minister in his absolute discretion, but with the concurrence of the Minister responsible for internal security and public order, by order published in the *Gazette* to suspend for a period not exceeding six months any trade union, or any class or description of trade unions, which in his opinion is, or is being, used for purposes prejudicial to or incompatible with, the interests of the security of, or public order in, Malaysia or any part thereof.

(2) Where in the opinion of the Minister the exigencies of the situation so require, the Minister may bring such order into force immediately upon its being made and before its publication in the *Gazette*, but after publicising it in such manner as the Minister thinks fit.

(3) Where the Minister makes an order under subsection (1) he may, either at the time of making the order or at any time subsequently thereto, give such directions of an ancillary or consequential nature or otherwise, as he may deem necessary or expedient, including directions in respect of any matter or proceeding before any authority, in relation to the trade union, under this Act or any other written law.

(4) A direction given under subsection (3)-

(a) may at any time be varied or revoked as the Minister deems necessary or expedient; and

(b) shall be valid and have full force and effect notwithstanding anything inconsistent therewith or contrary thereto contained in this Act.

(5) An order under subsection (1) may at any time be varied or revoked by the Minister.

(6) Subject to any direction given by the Minister under subsection (3), until an order of suspension is revoked by the Minister-

(a) the certificate of registration of the trade union in respect of which the order of suspension is made shall cease to have effect and the trade union shall cease to enjoy any of the rights, immunities and privileges of a registered trade union;

(b) the trade union shall be prohibited from carrying on any activity whatsoever; and

(c) no person shall take any part in its management or organisation, or act or purport to act on behalf of the union or as an officer of the union.

(7) An order or direction of the Minister under this section shall be final and conclusive.

(8) Any person who contravenes the provisions of subsection (6) or any direction given under subsection (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding three thousand ringgit, or to imprisonment for a term not exceeding three years, or to both.

### **PART III**

#### **REGISTRATION**

##### **19. Consequences of failure to register or of cancellation of registration.**

If any trade union does not apply for registration in due time, or if the registration of any trade union is refused, withdrawn or cancelled by the Director General or is rendered null and void by a decision of any court, then-

*[Am. Act A1324]*

(a) the trade union shall be deemed to be an unlawful association and 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, members or agents on behalf of the union, take part in any trade dispute or promote, organise or finance any strike or lock-out, or provide pay or other benefits for its members during a strike or lock-out;

(c) the trade union shall be dissolved and its funds disposed of in such manner as may be prescribed and, subject thereto, in accordance with the rules of the union; and

(d) no person shall, except for the purpose of dissolving the union and disposing of its funds in accordance with the rules or for the purpose of an appeal under section 71A against such refusal, withdrawal or cancellation, take any part in its management or organisation, or act or purport to act on behalf of the union or as an officer of the union.

#### **PART IV**

##### ***RIGHTS AND LIABILITIES OF TRADE UNIONS***

#### **20. Disabilities of unregistered union.**

A trade union shall not enjoy any of the rights, immunities or privileges of a registered trade union unless it is registered.

#### **PART IV**

##### ***RIGHTS AND LIABILITIES OF TRADE UNIONS***

#### **21. Immunity from civil suit in certain cases.**

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

#### **PART IV**

##### ***RIGHTS AND LIABILITIES OF TRADE UNIONS***

#### **22. Liability in tort.**

(1) A suit against a registered trade union or against any members or officers thereof on behalf of themselves and all other members of the trade union in respect of any tortious act alleged to have been committed by or on behalf of the trade union shall not be entertained by any Court.

(2) Nothing in this section shall effect the liability of a trade union or any trustee or officers thereof to be sued in any court touching or concerning the specific property or rights of a trade union or in respect of any tortious act arising substantially out of the use of

any specific property of a trade union except in respect of an act committed by or on behalf of the trade union in contemplation or furtherance of a trade dispute.

#### **PART IV**

##### ***RIGHTS AND LIABILITIES OF TRADE UNIONS***

#### **23. Liability in contract.**

Every registered trade union shall be liable on any contract entered into by it or by an agent acting on its behalf;

Provided that a trade union shall not be so liable on any contract which is void or unenforceable at law.

#### **PART IV**

##### ***RIGHTS AND LIABILITIES OF TRADE UNIONS***

#### **24. Objects in restraint of trade not unlawful in case of registered trade union.**

The objects of a registered trade union shall not, by reason only that they are in restraint of trade be deemed to be unlawful so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise or to render void or voidable any agreement or trust.

#### **PART IV**

##### ***RIGHTS AND LIABILITIES OF TRADE UNIONS***

#### **25. Proceedings by and against trade unions.**

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

(2) An unregistered trade union may be sued and prosecuted under the name by which it has been operating or is generally known.

(3) A trade union whose registration has been cancelled or withdrawn may be sued and



prosecuted under the name by which it was registered.

(4) Execution for any money recovered from a trade union in civil proceedings may issue against any property belonging to or held in trust for the trade union other than the benevolent fund of a registered trade union.

(5) Any fine ordered to be paid by a trade union may be recovered by distress and sale of any movable property belonging to or held in trust for the trade union in accordance with any written law relating to criminal procedure.

(6) In any civil or criminal proceedings in which a registered trade union is a party such trade union may appear in such proceedings by anyone of its officers or by an advocate and solicitor.

## **PART IV**

### ***RIGHTS AND LIABILITIES OF TRADE UNIONS***

#### **25A. Strikes and lock-outs.**

(1) No trade union of workmen shall call for a strike, and no member thereof shall go on strike, and no trade union of employers shall declare a lock-out-

*(a)* in the case of a trade union of workmen, without first obtaining the consent by secret ballot of at least two-thirds of its total number of members who are entitled to vote and in respect of whom the strike is to be called; and in the case of a trade union of employers, without first obtaining by secret ballot the consent of at least two-thirds of its total number of members who are entitled to vote;

*(b)* before the expiry of seven days after submitting to the Director General the results of such secret ballot in accordance with section 40 (5);

*(c)* if the secret ballot for the proposed strike or lockout has become invalid or of no effect by virtue of section 40 (2), (3), (6) or (9);

*(d)* in contravention of, or without complying with, the rules of the trade union;

*(e)* in respect of any matter covered by a direction or decision of the Minister given or made in any appeal to him under this Act; or

*(f)* in contravention of, or without complying with, any other provision of this Act or any provision of any other written law.

(2) Any trade union which, and every member of its executive who, commences, promotes, organises or finances any strike or lock-out which is in contravention of subsection (1)

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit, or to imprisonment for a term not exceeding one year, or to both, and a further fine of one hundred ringgit for every day during which such offence continues.

(3) Any member of a trade union of workmen who commences, participates in, or otherwise acts in furtherance of, any strike which is in contravention of subsection (1) shall forthwith cease to be a member of the trade union, and thereafter such member shall not be eligible to become a member of any trade union except with the prior approval of the Director General in writing; and the trade union of which he has so ceased to be a member shall forthwith-

(a) remove the name of such member from its membership register;

(b) inform the Director General and the member concerned of such removal;  
and

(c) exhibit conspicuously in its registered office in a place where it may be easily read a list of members whose names are so removed.

(4) The Director General may, where he is satisfied that subsection (1) has been contravened by any person and the trade union concerned has failed to carry out the provisions of subsection (3), or where there is undue delay in so doing, after such investigation as he deems necessary, order the trade union to remove forthwith the names of the members concerned from its membership register.

(5) The satisfaction of the Director General under subsection (4) that subsection (1) has been contravened by any person may be arrived at regardless as to whether or not there is any prosecution of any person for contravention of the said subsection (1).

(6) Any registered trade union which, and every member of its executive who, fails to comply with subsection (3) or with an order of the Director General under subsection (4) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit, and a further fine of one hundred ringgit for every day during which such offence continues.

(7) In every proceedings for an offence under this section the onus of proving that the requirements specified in subsection (1) have been complied with shall be on the trade union, the member of its executive or the member of the trade union, as the case may be.

Remove Highlights

## **PART V**

### **CONSTITUTION**

#### **26. Membership of minors.**

(1) Subject to the provisions of this Act, a person under the age of twenty-one, but above the age of sixteen, may be a member of a registered trade union, unless provision be made in the rules thereof to the contrary, and may, subject to the rules of the trade union, enjoy all the rights of a member except as herein 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 registered trade union:

Provided that no person for whom education is provided in any school, polytechnic, college, university, university college, or any other institution providing education, established by or under any written law, shall join or be a member of or be accepted or retained as a member by any trade union, unless he is-

(a) bona fide employed as a workman; and

(b) over the age of eighteen years

(1A) No person shall join, or be a member of, or be accepted or retained as a member by, any trade union if he is not employed or engaged in any establishment, trade, occupation or industry in respect of which the trade union is registered.

*[Am. Act A717; A732]*

(1B) For the purpose of subsection (1A), any person who is employed by a trade union as member of its executive under paragraph (a) of the proviso to section 29 (1) shall be deemed to be employed or engaged in the establishment, trade, occupation or industry concerned.

*[Ins. Act A717; A732]*

(2) A member of a trade union who has not attained the age of eighteen years shall not be entitled to vote on any of the following matters-

(a) strikes and lock-outs and all matters relating thereto;

(b) the imposition of a levy;

(c) dissolution of the trade union or of the federation with which it is connected;

(d) amendment of the rules of the trade union where such amendment results in increasing the liability of the members to contribute or in decreasing the benefits to which members are entitled.

*[Deleted by Act A1324]*

*[Am. Act A717]*

## PART V

### CONSTITUTION

#### 27. Membership of public officers and employees of statutory authorities.

(1) Subject to subsection (2), no public officer shall join or be a member of any trade union or shall be accepted as a member of any trade union.

(2) The Yang di-Pertuan Agong may by notification in the *Gazette* exempt from the provisions of subsection (1), either wholly or subject to such conditions as may be specified in such notification, any public officers or any category, class or description of public officers other than-

(a) members of the Royal Malaysian Police;

(b) members of any prison service;

(c) members of the Armed Forces;

(d) public officers engaged in a confidential or security capacity;

(e) public officers who are prohibited under any written law from forming or being members of a trade union; and

(f) public officers holding any post in the Managerial and Professional Group, except such public officers, or such class, category or description of public officers in such Group, as are excluded from the operation of this paragraph by a direction in writing issued by the Chief Secretary to the Government.

(3) (a) No person employed by a statutory authority shall join or be a member of, or be accepted as a member by any trade union unless the membership of that trade union is confined exclusively to persons employed by that particular statutory authority.

(aa) Notwithstanding subsection (3) (a), any person employed by a statutory authority who-

(i) holds any post in the Managerial and Professional Group or the equivalent thereof, shall not join, or be a member of, or be accepted or retained as a member by, any trade union, except such of these persons, or such class, category or description of these persons, as are excluded from the operation of this subparagraph by a direction in writing issued by the Chief Secretary to the Government; or

(ii) is engaged in a confidential or security capacity shall not join, or be a member of, or be accepted or retained as a member by, any

trade union.

(b) Any trade union whose membership is confined to persons employed by a statutory authority shall not be affiliated to any other trade union or any federation of trade unions whose membership is not otherwise so confined:

Provided that any such trade union may, after obtaining the written approval of the Minister, affiliate with a registered federation of trade unions comprising trade unions of public officers.

[Am. Act A798]

(bb) Notwithstanding subsection (3) (b), two or more trade unions of workmen employed by statutory authorities, other than workmen employed by local authorities, may, with the approval of the Minister and subject to the provisions of Part XII, form or create a federation of trade unions.

(c) For the purpose of this subsection the persons appointed to serve and serving in an institution or at a place or under a body or person specified in the first column of the Third Schedule shall be deemed to be persons employed by the authority or body specified in relation to such institution, place or person in the second column of that Schedule, and such authority or body shall be deemed to be a statutory authority.

(d) The Minister may by order add to, delete from or amend the Third Schedule.

(4) Notwithstanding subsection (3), but subject to paragraph (aa) thereof-

(a) employees of a financially autonomous local authority may join or be members of a trade union whose membership is confined exclusively to employees of one or more such financially autonomous local authorities;

(b) employees of statutory authorities other than employees of local authorities may with the approval of the Minister join or be members of a trade union whose membership is confined exclusively to employees of one or more financially autonomous local authorities.

(5) Any question under subsection (2) or (3) as to whether a person is engaged in a confidential or security capacity shall be decided by the Chief Secretary to the Government.

(6) Any person or a group of persons who have sought a direction of the Chief Secretary to the Government under subsection (2) (f) or under subsection (3) (aa) (i), and have failed to obtain such direction, or any person dissatisfied with any decision of the Chief Secretary to the Government under subsection (5), may, within thirty days of the failure to obtain such direction, or of such decision, as the case may be, appeal to the Minister responsible for

public services, whose decision thereon shall be final and conclusive.

(7) Any person who, immediately before the commencement of his subsection, is a member of a trade union but is disqualified from being a member thereof by virtue of subsection (2) (a) to (f), or by virtue of subsection (3) (aa), shall cease to be a member thereof upon the expiry of six months after the commencement of this subsection, save that-

(a) in the case of a person to whom paragraph (f) of subsection (2) applies, such person shall not cease to be a member thereof if within such period of six months he obtains the direction of the Chief Secretary to the Government under the said paragraph (f) and is exempted by a notification of the Yang di-Pertuan Agong under subsection (2); and

(b) in the case of a person to whom subparagraph (i) of paragraph (aa) of subsection (3) applies such person shall not cease to be a member thereof if within such period of six months he obtains the direction of the Chief Secretary to the Government under the said subparagraph (i):

Provided that where any such person is an officer of his trade union, he may continue to remain a member of such trade union until the expiry of the term of his office, or until the otherwise earlier ceases to hold such office, if the term of his office extends beyond the said period of six months.

8 (a) In this section "Managerial and Professional Group" means the Kumpulan Pengurusan dan Iktisas referred to in paragraph 7.2 of either Pekeliling Perkhidmatan Bil. 2 Tahun 1977 or Pekeliling Perkhidmatan Bil. 4 Tahun 1977 (both dated the 31st March 1977) or in paragraph 8.2 of either Pekeliling Perkhidmatan Bil. 1 Tahun 1978 or Pekeliling Perkhidmatan Bil. 2 Tahun 1978 (both dated the 12th April 1978) issued by the Jabatan Perkhidmatan Awam. Malaysia, or, when used with reference to persons employed by a statutory authority, it means any group of persons corresponding to those referred to in the said paragraph 7.2 or the said paragraph 8.2 of the said Pekeliling-pekeling, as the case may be.

(b) The Minister responsible for public services may from time to time, by notification in the *Gazette*, amend the DEFINITION of "Managerial and Professional Group" set out in this subsection.

## PART V

### CONSTITUTION

#### 28. Officers.

(1) A person shall not be or act as a member of the executive of a trade union or any branch

thereof, or of any federation of trade unions, and shall be disqualified for election as such member, if-

*[Am. Act A1324]*

(a) he is not a citizen of the Federation;

(b) *[Deleted by Act A1324]*

*[Am. Act A717; A732]*

(c) he has been a member of the executive of any trade union the registration of which has been cancelled or withdrawn under section 15 (1) (b) (iv), (v) or (vi) or under any law repealed by this Act;

(cl) he is an office-bearer or employee of a political party;

(d) he has been convicted by any court of law of criminal breach of trust, extortion or intimidation, or of an offence under section 49,50 or 50A which in the opinion of the Director General renders him unfit to be an officer of a trade union; or

(e) he is a bankrupt:

Provided that paragraphs (a) and (b) shall not apply in the case of a union which, in the opinion of the Minister, is required by its objects to represent persons or the interests of persons who are not resident in West Malaysia, Sabah or Sarawak, as the case may be.

(2) Where the Director General certifies in writing to the executive of a trade union or a federation of trade unions that any person who is a member of the executive of that union or federation is disqualified from being a member of such executive, specifying in such certification the grounds on which such person is so disqualified, such person shall immediately thereupon cease to be a member of such executive.

Remove Highlights

## **PART V**

### **CONSTITUTION**

#### **29. Employees of a trade union.**

(1) A registered trade union may, subject to subsection(2) and of the rules of such union, employ and pay a secretary, treasurer and such other persons as may be necessary for the purposes of such union or of any federation of trade unions to which the union belongs:

Provided that no employee of such union other than-

(a) the holder of a full-time office as secretary, assistant secretary, treasurer or assistant treasurer who is elected in accordance with the rules of such union; or

(b) a secretary, assistant secretary, treasurer or assistant treasurer who is employed as such immediately before the commencement of this paragraph and possessing no power of voting in respect of the affairs of such union or of any of its committees,

shall be a member of the executive of such union.

(2) A person shall not be employed by a registered trade union under subsection (1)-

(a) if he is not a citizen of the Federation resident in West Malaysia, in the case of a trade union in West

Malaysia, or resident in Sabah, in the case of a trade union in Sabah, or resident in Sarawak, in the case of a trade union in Sarawak;

(b) if he has been convicted by any court of a criminal offence and has not received a free pardon in respect thereof, and such conviction in the opinion of the Director General renders him unfit to be employed by a trade union;

(c) if he is an officer or employee of any other trade union; or

(cl) if he is an office-bearer or employee of a political party:

Provided that paragraph (a) shall not apply in the case of union which, in the opinion of the Minister, is required by its objects to represent persons or the interests of persons who are not resident in West Malaysia, Sabah or Sarawak as the case may be, and that paragraph (c) shall not apply to a federation of trade unions registered under Part XII.

(3) Any person who is disqualified to be employed by a trade union under subsection (1) or subsection (2) and has himself so employed without first obtaining the exemption of the Minister under section 30(b), shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one year, or to a fine not exceeding two thousand ringgit, or to both.

## **PART V**

### **CONSTITUTION**

#### **30. Power of Minister in relation to sections 28 and 29.**



The Minister may by order-

(a) declare that section 28 or 29 shall not apply to any registered trade union or class of registered trade unions specified in the order; or

(b) grant, either absolutely or subject to such conditions as he may consider reasonably necessary, exemption from all or any of the provisions of section 28 or 29 in respect of officers or employees or such proportion or class of officers or employees of any registered trade union or class of registered trade unions as may be specified in the order.

## **PART V**

### **CONSTITUTION**

#### **31. Change of name.**

(1) Any registered trade union may, subject to section 34, change its name, provided that -

(a) the votes of at least one-half of its members entitled to vote are recorded;  
and

(b) at least fifty per centum of the votes recorded are in favour of the change of name.

(2) Notwithstanding subsection (1), a trade union may change its name without the consent of its members if there is a change in the name of the establishment being effected under any written law, occupation, ministry, department, or statutory authority, as the case may be, in respect of which the trade union is registered.

*[Subs. Act A1324]*

## **PART V**

### **CONSTITUTION**

#### **32. Amalgamation.**

Any two or more registered trade unions whose members are employed within similar trades, occupations or industries may become amalgamated as one trade union, with all the funds of such trade unions vested in the amalgamated trade union and all their properties

vested in the trustees of the amalgamated trade union, provided that-

*[Am. Act A717]; [Am. Act A1324]*

(a) the votes of at least one-half of the members of each or every such trade union entitled to vote are recorded; and

(b) that at least sixty per centum of the votes recorded are in favour of the proposal.

## **PART V**

### **CONSTITUTION**

#### **33. Transfer of engagements.**

(1) (a) Subject as hereinafter provided a trade union may by a special resolution transfer its engagements to any other trade union whose members are employed within similar trades, occupations or industries which may undertake to fulfil those engagements; but no transfer under this section shall prejudice any right of any creditor of any trade union which is a party thereto.

*[Am. Act A717]*

(b) For the purpose of this subsection "a special resolution" means a resolution proposed at any general meeting of which notice specifying the intention to propose that resolution has been duly given according to the rules and passed by not less than two-thirds of the members of the union present and entitled to vote at the meeting, or if the general meetings of the union are meetings of delegates, by not less than two-thirds of the delegates present at the meeting.

(2) No transfer under this section shall take effect unless or until-

(a) the consent thereto of not less than two-thirds of the members of the union transferring its engagements has been obtained either at meetings or in writing, or the Registrar on application made to him in writing by the union and after notice of the application has been published in the *Gazette* and (if he so requires) in one or more newspapers, and after hearing the union and any other persons whom he considers entitled to be heard, has dispensed with that consent; and

(b) notice of the transfer (which it shall be the duty of every union transferring its engagements to send to the Director General) has been registered. The application for registration of the notice of transfer shall be made in writing and signed by the chairman of the meeting and the secretary of the union transferring its engagements, and by the president, secretary and trustees of the union undertaking to fulfil the engagements.

(3) The property held for the benefit of any trade union amalgamating with any other trade union or of any trade union transferring its engagements under this section, or for the benefit of a branch of any such union, by the trustees of the union or of any branch thereof, other than property excepted from the operations of this subsection by the instrument of transfer or amalgamation, shall without any conveyance or assignment vest, on registration of notice of the amalgamation or transfer, or on the appointment of the appropriate trustees, whichever is the later, in the appropriate trustees, that is to say-

(a) in the case of any property to be held for the benefit of a branch of the amalgamated union or of a branch of the union undertaking to fulfil the engagements, in the trustees of that branch, unless the rules of that branch provide that property to be so held shall be held by the trustees of the union; and

(b) in any other case in the trustees of the amalgamated union or of the union undertaking to fulfil the engagements.

(4) Every instrument of amalgamation or transfer shall specify any property to be vested under the foregoing provisions, in relation to which the trustees of the amalgamated union or of the union undertaking to fulfil the engagements are not or will not be the appropriate trustees and shall designate the persons who are or will be the appropriate trustees in relation to that property.

## **PART V**

### **CONSTITUTION**

#### **34. Notice of change of name or amalgamation.**

(1) Notice in writing shall be given to the Director General 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 registered trade union changing its name. and, in the case of an amalgamation, by the secretary and by seven members of each and every registered trade union which is a party thereto.

(2) If the proposed name is identical to that of any other existing trade union, or so nearly resembles the name of such other trade union as, in the opinion of the Director General, is likely to deceive the public or the members of either trade union, or is in the opinion of the Director General undesirable, he shall refuse to register the change of name.

(3) Subject to subsection (2), the Director General shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the prescribed 'manner' and the change of name shall have effect from the date of such registration.

(4) If the Director General 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 12, he shall register the trade union in the prescribed manner and the amalgamation shall have effect from the date of such registration.

#### **PART V**

#### **CONSTITUTION**

**35.(Repealed).**

#### **PART V**

#### **CONSTITUTION**

#### **36. Effect of change of name of amalgamation.**

(1) A change in the name of a registered trade union shall not affect any rights or obligations of that trade union or render defective any legal proceeding by or against the trade union, 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.

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

## PART V

### CONSTITUTION

#### 37. Registered office.

(1) Every registered trade union shall have a registered office situated in West Malaysia, Sabah or Sarawak, as the case may be, to which all communications and notices may be addressed.

(2) Notice of the situation of such registered office, and of any change therein, shall be given to the Director General at least fourteen days prior to such change and shall be registered by him, and the trade union shall not be deemed to have complied with this Act until such notice has been given.

*[Am. Act A1324]*

(3) Every trade union which-

(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 Director General.

and every officer of any such union shall, on conviction be liable to a fine not exceeding fifty ringgit for every day during which such union is so in operation.

## PART V

### CONSTITUTION

#### 38. Rules.

(1) The rules of every registered trade union shall make provision for all the matters specified in the First Schedule, and shall not be so altered or amended as to cease to contain provision in respect of all such matters.

(2) A copy printed in National Language or English or Tamil or Chinese of the rules for the time being in force of any registered trade union shall be prominently exhibited in such place as it may easily be read at the registered office thereof and shall be furnished by the secretary of such trade union to any person on demand on payment of a sum not exceeding ten ringgit:

*[Am. Act A1324]*

Provided that if the copy of the rules is not printed in National Language or English, a typewritten or otherwise mechanically produced copy of the rules in National Language or English as registered and signed by the president, secretary and treasurer of the union shall, in addition, be prominently exhibited at the registered office and shall be furnished by the secretary with every copy of the printed rules of the union in Tamil or Chinese on demand.

(3) A copy in National Language of every new rule and of every alteration made in the rules of a registered trade union shall be sent to the Registrar within thirty days of the making of such rule or alteration and shall if approved by him be registered by the Registrar on payment of the prescribed fee:

*[Am. Act A717]*

Provided that any alteration of the rules which results in increasing the liability of the members to contribute other than the increase of members subscription or in decreasing the benefits to which members are entitled shall not be approved by the Registrar unless more than one-half of the members entitled to vote in accordance with the union's rules have voted in favour of the proposed alteration.

(4) Every alteration of the rules of a trade union shall take effect from the date of registration by the Director General unless some later date is specified in the rules.

(5) The Minister may by order add to, delete from or amend the First Schedule.

## **PART V**

### **CONSTITUTION**

#### **39. (Repealed).**

## **PART V**

### **CONSTITUTION**

#### **40. Secret ballot.**

(1) A trade union shall take a secret ballot to make a decision on any of the following matters-

(a) the election of delegates to a general meeting, if the rules of the union provide for meetings of delegates, or to a federation of trade unions;

(b) the election of officers (other than trustees) by the members in accordance with the rules of the union;

(c) all the matters relating to strikes or lock-outs;

(d) the imposition of a levy;

(e) dissolution of the trade union or federation of trade unions;

(f) amendments of the rules where such amendment results in increasing the liability of the members to contribute or in decreasing the benefits to which members are entitled;

(g) amalgamation with another trade union or transfer of engagements to another trade union.

(2) Where a secret ballot is taken on any matter relating to a strike or a lock-out, it shall contain a resolution setting out clearly the issues leading to the proposed strike or lock-out and describing clearly the nature of the acts which are to be done or omitted to be done in the course of such strike or lock-out; and a secret ballot which does not fulfil these requirements shall be invalid and of no effect, and no strike or lock-out shall be carried out on the basis of such secret ballot.

(3) A secret ballot which has been taken on any matter relating to strike or lock-out shall cease to have effect upon the expiry of ninety days after the date on which the secret ballot is taken and no strike or lock-out shall thereafter be carried out on the basis of such secret ballot.

(4) In carrying out any secret ballot, a trade union shall ensure that every member thereof has an equal right and a reasonable opportunity to record his vote freely, that the secrecy of the ballot is properly secured and that the results of the ballot are correctly ascertained.

*[Am. Act A717]*

(5) The results of a secret ballot taken to decide on any of the matters specified in subsection (1) shall be submitted by the secretary of the trade union to the Director General in triplicate, substantially in the form prescribed by regulations, within fourteen days after the taking of the secret ballot.

(6) Where a trade union has taken a secret ballot to call for a strike or to declare a lock-out, the Director General may upon receipt of the results thereof under subsection (5), carry out all such investigations as he may deem necessary, and where he is satisfied that the proposed strike or lock-out if carried out would contravene this Act or any other written law he shall direct the trade union not to commence the proposed strike or lock-out.

(7) The secretary of the trade union shall take all such steps as are necessary to ensure that all ballot papers and documents used in connection with or relevant to a secret ballot are kept at the registered office of the trade union for a period of not less than six months after

completion of the ballot.

(8) For the purpose of satisfying himself that a secret ballot taken by a trade union has been properly conducted, the Director General may require any person to deliver to him any ballot papers, envelopes, lists, or other documents whatsoever, which have been used in connection with or are relevant to the secret ballot and which are in the possession or under the control of that person, and may inspect any such document and retain it for such period as he deems necessary; but save as aforesaid or as may be provided in the rules of the trade union no person shall be allowed to inspect or copy any documents relating to a secret ballot.

(9) The Director General may in any particular case declare a secret ballot taken by a trade union to be invalid if he is satisfied that the trade union has contravened any provision of this Act, or of any regulations, or of any of its rules in carrying out such secret ballot.

## **PART V**

### **CONSTITUTION**

#### **40A. Imposition of levy.**

A trade union may impose a levy on its members, provided that for each and every imposition of the levy -

(a) the votes of at least one-half of the members who are entitled to vote are recorded; and

(b) at least fifty per centum of the votes recorded are in favour of the imposition of such levy.

*[Ins. Act A1324]*

## **PART V**

### **CONSTITUTION**

#### **41. Notification of changes of officers and employees.**

(1) A trade union shall exhibit prominently in its registered office in a place where it may be easily read a list showing the names and titles of the officers and employees for the time being of the union, and shall also so exhibit at the office of each branch of the trade union a list showing the names and titles of the officers and employees for the time being of the branch.



(2) Notice in the form prescribed by regulations of every change of officer, employee or of the title of any officer or employee shall, together with the fee prescribed by regulations, be sent to the Director General within fourteen days after the change, and the Director General shall, on being satisfied that such change is not contrary to the rules of the union or this Act or any regulations, alter the register accordingly.

## **PART V**

### **CONSTITUTION**

#### **42. Notification of dissolution.**

When a registered trade union is dissolved voluntarily, 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 Director General, 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 this Act and any regulations made thereunder; and the dissolution shall have effect from the date of such registration.

## **PART V**

### **CONSTITUTION**

#### **43. Trustees.**

(1) The rules of a registered trade union shall provide for the appointment or election of trustees and for the filing of vacancies in the office of trustee so that, as far as may be, there shall always be at least three trustees of the union.

(2) No secretary or treasurer of a registered trade union may be a trustee thereof.

(3) A corporation approved by the Director General may be appointed as sole trustee by a registered trade union, and references in this Act to "trustees" shall include reference to a corporation so appointed.

(4) The names and particulars of the trustees appointed or elected or any changes therein shall be forwarded by the union to the Director General for entry in the register within fourteen days after the change and such appointment or election shall not take effect until so registered.

## **PART VI**

### **DISPUTES**

#### **44. Decision of disputes.**

(1) Every dispute between-

(a) a member or person claiming through a member or under the rules of a registered trade union or any branch thereof, and the union or any branch thereof or an officer thereof;

(b) any person aggrieved who has ceased to be a member of a registered trade union or any branch thereof, or any person claiming through such person aggrieved, and the union or any branch thereof, or an officer thereof;

(c) any registered trade union and any branch thereof;

(d) an officer of any branch and the registered trade union of which such branch is a branch; or

(e) any two or more branches of a registered trade union or any officers thereof respectively,

shall be decided in the manner directed by the rules of the trade union, and the decision so given shall be binding and conclusive on all parties; and application for the enforcement thereof may be made to a Sessions Court.

(2) The parties to a dispute in a registered trade union may, by consent (unless the rules of the union expressly forbid it), refer the dispute to the Director General.

(3) The Director General of Trade Unions shall either by himself or by any Deputy Director General, or any Director, or any Assistant Director, hear and determine any dispute referred under subsection (2), and shall have power to order the expenses of determining the dispute to be paid either out of the funds of the union, or by such parties to the dispute as he may think fit, and his determination and order shall have the same effect and be enforceable in like manner as a decision made in the manner directed by the rules of the union.

(4) The Director General of Trade Unions, any Deputy Director General, or any Director, or any Assistant Director may for the purpose of determining a dispute referred under subsection (2) administer oaths, and may require the attendance of all parties concerned, and of witnesses, and the production of all books and documents relating to the matter in question.

(5) Where the rules of a registered trade union direct that disputes shall be referred to the courts, the dispute shall be determined by a Sessions Court.

(6) Where no decision is made on a dispute within forty days after application to the union for a reference under its rules, the member or person aggrieved may apply to a Sessions Court and the Sessions Court may hear and determine the matter in dispute.

## **PART VI**

### ***DISPUTES***

#### **45. Powers of the Court and Director General in relation to disputes.**

Notwithstanding anything contained in the Arbitration Act, 1952 or in any other written law, a Sessions Court and the Director General or any arbitrator or umpire to whom a dispute is referred under the rules of a registered trade union shall not be compelled to state a special case on any question of law arising in the case, but the Court or Director General may, at the request of either party, state a case for the opinion of the High Court on any question of law, and may also grant to either party such discovery as to documents and otherwise, or such inspection of documents as might be granted by any court, and the discovery shall be made on behalf of the union by such officer thereof as the Sessions Court or the Director General may determine.

## **PART VI**

### ***DISPUTES***

#### **46. Interpretation of "dispute" for the purpose of this Part.**

In this Part the expression "dispute" includes any dispute arising on the question whether a member or person aggrieved is entitled to be or to continue to be a member or to be reinstated as a member, or whether the rules relating to the decision of disputes or the procedure thereunder has not been complied with but, save as aforesaid, in the case of a person who has ceased to be a member, does not include any dispute other than a dispute on a question between him and the trade union or an officer thereof which arose whilst he was a member or arises out of his previous relation as a member to the trade union.

## **PART VII**

### ***PROPERTY***

#### **47. All property vested in trustees.**

All property, movable or immovable, of a registered trade union shall be vested in the trustees for the use and benefit of the union and its members and shall be under the control of the trustees.

## **PART VII**

### ***PROPERTY***

#### **48. Devolution of property.**

Upon any change in the office of any trustee. the High Court may upon an *ex parte* motion made to it in that behalf make an order vesting the property of a registered trade union in the trustees for the time being of the union for the same estate and interest as the former trustee had therein, and subject to the same trusts, without any transfer, conveyance or assignment.

### **PART VII**

#### **PROPERTY**

#### **49. Investment of funds.**

(1) A registered trade union may-

(a) purchase or take upon lease for the purposes of the union any land or building and, subject to any written law or other law which may be applicable, lease, or with the consent of its members obtained by way of a resolution at a general meeting or a meeting of delegates sell, exchange or charge any such land or building which may be so purchased;

*[Am. Act A1324]*

(b) invest its funds in any securities or in any loans to any company in accordance with any law relating to trustees;

(c) deposit its funds in the Bank Simpanan Nasional, any bank incorporated in Malaysia or any finance company which is a subsidiary company of such bank;  
or

(d) with the prior written approval of the Minister and subject to such conditions as he may impose, invest its funds-

(i) in any registered cooperative society; or

(ii) in any commercial, industrial or agricultural undertaking or banking enterprise, which is incorporated and operating in Malaysia.

(2) The Minister may, before granting approval under subsection (1) (d), require such trade union to obtain a report on the feasibility and viability of the project.

(2A) For the purpose of satisfying himself that an investment under this section has been properly made, the Director General may order any person to deliver to him any document or accounts relating to the investment which are in the possession or control of that person and may inspect and retain them for such period as he deems necessary for such purpose, and any person who fails or neglects without reasonable excuse to comply with any such

order, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

(3) Every person who and every trade union which contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding two years, or to a fine not exceeding two thousand ringgit or to both.

## **PART VIII**

### **FUNDS AND ACCOUNTS**

#### **50. Application of funds.**

(1) The funds of a registered trade union may, subject to the rules thereof and to this Act, be expended only for the following objects-

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

*(b)* the payment of costs and expenses of the administration of the trade union including audit of the account 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 right of the trade union as such or any right arising out of the relations of any member with his employer, or with a person whom the member employs;

*(d)* the expenses incurred in the settlement of disputes under Part VI;

*(e)* the conduct of trade disputes on behalf of the trade union or any member thereof provided that such trade disputes do not contravene this Act or any other written law;

*(f)* the compensation of members for loss arising out of trade disputes involving such members provided that such trade disputes do not contravene this Act or any other written law;

*(g)* allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment of such members;

*(h)* the payment of fees in respect of affiliation with, or membership of, any federation of trade unions registered under Part XII or any consultative or similar body in respect of which permission has been given by the Director General under section 76A (1) or the Director General has been notified under

section 76A (2);

(i) the payment of-

(i) all train fares, other essential transport expenses, cost of board and lodging, supported by vouchers, or such amounts as are laid down by the union;

(ii) the amount of actual wages lost by representatives of trade unions attending meetings connected with or related to the promotion of industrial relations or attending to any matters as required by the Director General in relation to this Act or any regulations;

(iii) expenditure for the purpose of the establishment or maintenance of a federation of trade unions registered under Part XII, or a consultative or similar body in respect of which permission has been given by the Director General under section 76A(1) or the Director General has been notified under section 76A (2);

(j) the editing, printing, publication and circulation of any journal, magazine, news sheet or other printed literature published by the registered trade union for the advancement of its objects or the promotion of the interests of the members in accordance with its registered objects and rules;

(k) the conduct of social, sporting, educational and charitable activities of the members;

(l) the payment of premia to insurance companies registered in Malaysia as may from time to time be approved by the Director General.

(2) The Minister may by notification in the *Gazette* add to, delete from or amend the objects specified in subsection (1).

## **PART VIII**

### **FUNDS AND ACCOUNTS**

#### **50A. Collection of funds and moneys.**

(1) No trade union shall enter into any agreement with any person by which such person undertakes to raise funds or collect moneys for or on behalf of the trade union except with the prior approval in writing of the Director General and subject to such conditions as he may impose.

(2) Subsection (1) shall not apply to any agreement where an employer make deductions from the wages of his workmen for payment to a trade union on account of subscriptions.

## **PART VIII**

### ***FUNDS AND ACCOUNTS***

#### **51. Prohibition of payment of fines of penalties.**

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

## **PART VIII**

### ***FUNDS AND ACCOUNTS***

#### **52. Prohibition of use of funds for political objects.**

(1) The funds of a registered trade union shall not be applied either directly or indirectly in any payment whatsoever to a political party or in furtherance of any political object.

(2) The expression "political object" referred to in subsection (1) includes-

(a) the payment of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election to the Dewan Rakyat or any Dewan Undangan Negeri before, during or after the election in connection with his candidature or election;

(b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate;

(c) the maintenance of any person who is a member of the Dewan Rakyat or any Dewan Undangan Negeri;

(d) the registration of electors or the selection of a candidate for membership of the Dewan Rakyat or any Dewan Undangan Negeri;

(e) the holding of political meeting of any kind, or the distribution of political literature or political documents of any kind; or

(f) any object which the Minister may by notification in the *Gazette* specify.

## **PART VIII**

## **FUNDS AND ACCOUNTS**

### **53. Injunction to restrain misuse of funds.**

An injunction restraining any unauthorized or unlawful expenditure of the funds of a registered trade union may be granted on the application of any five persons having a sufficient interest in the relief sought, or of the Director General, or of the Public Prosecutor.

## **PART VIII**

## **FUNDS AND ACCOUNTS**

### **54. Preservation of funds of registered trade union.**

(1) Where a notice has been given by the Director General to a trade union under section 15 (2A), the Director General may, where he is satisfied that it is likely that the funds of the union may be misused, by order direct any bank in Malaysia not to pay any money out of nor to pay cheques drawn on the account of such union for a specified period not exceeding six months.

(2) Any officer of the bank who complies with an order of the Director General under subsection (1) shall be relieved of any liability to any other person in respect of the payment prohibited by such order.

(3) The manager of any bank which fails to comply with an order of the Director General under subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding three thousand ringgit, or to imprisonment for a term not exceeding three years, or to both.

(4) The Director General shall cause to be published in the *Gazette* the name of any trade union in respect of which any order is made under subsection (1).

(5) , (6) & (7) (*Repealed*).

## **PART VIII**

## **FUNDS AND ACCOUNTS**

### **55. Duty to render accounts.**

(1) Every treasurer of a registered trade union and every other officer and employee 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 enter or cause to be entered in the accounts of such union a record of all receipts by and payments out of the funds of the union and shall, upon resigning or vacating his office or employment 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



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 Director General render to the union and its members or to the Director General, as the case may be, a just and true account of all moneys received and paid by him during the period which has 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 custody or under his control.

(2) The form of account may be prescribed by regulations.

(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 Director General.

(4) After the account has been audited, the treasurer or other officer or employee referred to in subsection (1) shall forthwith hand over to the trustees of the union, if required by them to do so, such balance as appears to be due from him, and also, if so required, all bonds, securities, effects, books, papers and property of the union in his hands or custody, or otherwise under his control.

## **PART VIII**

### **FUNDS AND ACCOUNTS**

#### **56. Annual returns to be prepared as Director General may direct.**

(1) A general statement audited in the manner prescribed by regulations of the receipts, funds, effects, and expenditure of every registered trade union in respect of the period of twelve months ending on the thirty-first day of March in each year shall be transmitted to the Director General before the first day of October in every year, and shall show fully the assets and liabilities at that date, and the receipts and expenditure during the year preceding the date to which it is made out, of the trade union, and shall show separately the expenditure in respect of the several objects of the trade union, and shall be prepared and made out up to such date, in such form, and shall comprise such particulars, and the Director General may from time to time require; and every member of, and depositor in, any such trade union shall be entitled to receive, on application to the treasurer or secretary of that trade union, a copy of such general statement, without making any payment for the same.

*[Am. Act A717; Act A1324]*

(1A) The general statement referred to in subsection (1) shall be verified by statutory declaration, and the union shall cause the general statement to be audited by some fit and proper person approved by the Director General:

*[Ins. Act A717]*

Provided that no trade union shall cause its general statement to be audited by the same person successively for a period of more than three years.

(1B) The Director General may, if he considers it necessary, by notice in writing-

*[Ins. Act A717]*

(a) direct the attendance before him, at the place and time set out in the notice, of any person appointed to audit the general statement of a trade union for any purpose related to the audit; or

(b) direct any trade union to cause the general statement to be further audited in such manner as he may require.

(1C) All expenses incurred in complying with any direction of the Director General under subsection (1B) shall be borne by the trade union concerned.

*[Ins. Act A717]*

(2) Together with the general statement referred to in subsection (1), the secretary of each registered trade union shall furnish to the Director General a copy of all alterations or amendments of rules, and of all new rules, and a list of all changes of officers, made by the union during the period of twelve months preceding the said thirty-first day of March, and a copy of the rules of the trade union in force, and particulars of its membership, on that day.

(3) Every member of a registered trade union shall be entitled to receive free of charge a copy of the general statement referred to in subsection (1) and the secretary of each registered trade union shall deliver a copy of such statement to every member of his union who makes application to him therefor.

(4) Every registered trade union and president, secretary and treasurer of the registered trade union who fails to comply with any of the requirements of subsection (1) shall be jointly and severally guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred ringgit for each day or part of a day during which the default continues; and any secretary of a registered trade union who fails to comply with any of the requirements of subsections (2) and (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred ringgit for each day or part of a day during which the default continues.

*[Subs. Act A1324]*

(5) Every person who wilfully makes or orders or causes or procures to be made any false entry in or omission from any account of a registered trade union or general statement, copy or list delivered to the Registrar under subsections (1) and (2) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit, or to imprisonment for a term not exceeding six months, or to both.

## **PART VIII**

### **FUNDS AND ACCOUNTS**

#### **57. Keeping and inspection of accounts and records.**

- (1) Every registered trade union shall cause to be kept such account books and other records as may be prescribed by regulations.
- (2) The books or records referred to in subsection (1), the records of a trade union's proceedings, and a list of its members shall at all reasonable times be open to inspection by any member of the trade union, or any person having an interest in the funds of the trade union, or the Director General.
- (3) The Director General may, acting for a member or on his own behalf, in any particular case, order the account books and other records of a trade union to be made available for inspection or audit by a fit and proper person approved by him.
- (4) Every trade union which, and every member of its executive who, contravenes subsection (1) or (2) or fails to comply with any order under subsection (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit, or to imprisonment for a term not exceeding six months, or to both.

## **PART IX**

### **REGULATIONS**

#### **58. Regulations.**

- (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.
- (2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters-
  - (a) all matters stated or required in this Act to be prescribed;
  - (b) the books and registers to be kept for the purposes of this Act 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;
  - (d) 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;

(e) the conditions subject to which inspection of documents kept by the Director General shall be allowed and the fees which shall be chargeable in respect of such inspections;

(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 funds of registered trade unions and all matters connected therewith or incidental thereto;

(h) the penalties for any contravention or failure to comply with any of the provisions of any regulation made under this section: provided that no such penalty shall exceed the penalty prescribed under section 63; and

(i) generally for all matters incidental to or connected with the matters or subjects specifically mentioned in this subsection.

(3) The Minister may by regulation declare that any regulation made under subsection (2) (g) shall apply to a specified trade union only or that any particular trade union or class of trade unions shall be exempt from the operation of any regulation made under that head of that subsection.

(4) All regulations made under this section shall be laid on the table of the Dewan Rakyat at the first meeting of the Dewan Rakyat after the publication of such regulations in the *Gazette*.

## **PART X**

### **OFFENCES AND PENALTIES**

#### **59. Acts done prior to registration.**

Every person who, and every trade union which, prior to the registration of the union under this Act, does any act in furtherance of any of the objects specified in the DEFINITION of a trade union in section 2, shall be guilty of an offence:

Provided that nothing in this section shall apply to any act done in good faith in the course and for the purpose of establishing the trade union.

## **PART X**

### **OFFENCES AND PENALTIES**

## **60. Misuse of money or property of a registered trade union.**

(1) Where, on complaint made by a member of a registered trade union, or by the Director General it is shown to the satisfaction of a Sessions Court that any officer, employee or member or former officer, employee or member of that union has in his possession or control any property of the union except in accordance with the rules of the union, or has unlawfully expended or withheld any money of the union, the Court shall, if it considers the justice of the case so requires, order such officer, employee or member to deliver all such property to the trustees of the union and to pay to them the money so unlawfully expended or withheld.

(2) A complaint made under subsection (1), other than a complaint made by the Director General, shall not be entertained unless the Sessions Court is satisfied that the complainant is, on the date of that complaint, a member of the registered trade union in respect of the property of which such complaint is so made.

(3) Any person bound by an order made under subsection (1) who fails to comply with the terms thereof and the directions given therein within a time to be specified in such order shall be guilty of an offence and shall, on conviction, by a Sessions Court, be liable to a fine not exceeding five hundred ringgit.

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

### **PART X**

#### **OFFENCES AND PENALTIES**

## **61. Supplying false information regarding trade unions.**

Any person who, with intent to deceive, gives to any member of a registered trade union or to any person intending or applying to become a member of such trade union any document purporting to be a copy of the rules of the trade union or of any alterations thereto which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives copy of any rules of an unregistered trade union to any person on the pretence that such rules are the rules of a registered trade union, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two hundred ringgit, or to imprisonment for a term not exceeding three months, or to both.

### **PART X**

#### **OFFENCES AND PENALTIES**

## **62. Failure to submit returns.**

(1) If default is made on the part of any registered trade union in doing any act, in giving any notice, or in sending any statement, return or other document as required by this Act or by the regulations made thereunder, every officer or other person bound by the rules of the trade union or under this Act or the regulations made thereunder to do such act, or to give such notice, or to send such statement, return or document or, if there is no such officer or person, every member of the executive of that registered trade union shall severally be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

(2) Any person who with intent to deceive submits to the Director General any statement, return or document required under this Act or any regulations, which he knows or has reason to believe is not correct, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit, or to imprisonment for a term not exceeding six months, or to both.

## **PART X**

### **OFFENCES AND PENALTIES**

#### **63. General penalty.**

(1) Every person who, and every trade union which, contravenes-

(a) any provisions of this Act for which no other punishment is provided;

(b) any rule of the union relating to any matter specified in the First Schedule;

(c) any regulation made under this Act for which no other punishment is provided; or

(d) any summons, order, direction or condition given, made or imposed under this Act,

shall be guilty of an offence and shall, on conviction, of an offence under this Act for which no other punishment is provided, be liable to a fine not exceeding five thousand ringgit.

*[Am. Act A1324]*

(2) Upon conviction of an unregistered trade union under this Act, every person proved to have been an officer or member of the executive of that trade union at any time after the commencement of this Act shall be deemed severally to be guilty of the offence for which the trade union was so convicted and the court shall, after necessary enquiry declare in its

finding and order the name of each person so deemed to be guilty and shall pass sentence upon him according to law.

## **PART X**

### **OFFENCES AND PENALTIES**

#### **64. Prosecution and power to enter premises.**

(1) Any prosecution in respect of any offence under this Act or any regulations may be conducted by the Director General with the prior written consent of the Public Prosecutor.

(2) The Director General may-

*(a)* for the purposes of discharging any of his duties or carrying out any of his functions under this Act or any regulations, or otherwise for any of the purposes of this Act or any regulations, enter at any reasonable time into the registered office of a trade union or any premises or place which he has reason to believe is kept or used for the purposes of the trade union and may carry out such inspection and examination as he may consider necessary; and

*(b)* where he has reasonable grounds for believing that an offence under this Act or any regulations has been committed, enter at any time, after obtaining a search warrant from a Magistrate, any office, premises or place which is specified in the search warrant, and carry out any search, inspection or examination, and seize or detain any article or document found in such office, premises or place which may be required for the purposes of any prosecution in respect of such offence.

(3) A search warrant under subsection (2) *(b)* may be issued by a Magistrate to the Director General if he is satisfied upon written information by the Director General that there is a good reason to believe that an offence under this Act or any regulations has been committed, and that the office, premises or place to be specified in the search warrant is kept or used for the purposes of the trade union.

## **PART X**

### **OFFENCES AND PENALTIES**

#### **65. Saving of offences under other written law.**

Subject to Clause (2) of Article 7 of the Constitution, the offences and penalties specially defined and provided in this Act are in addition to and not in substitution for those defined and provided in any other written law.

## PART XI

### MISCELLANEOUS

#### **66. Act not to affect certain agreements or authorize action outside rules.**

(1) This Act shall not affect-

(a) any agreement between partners as to their own business;

(b) any agreement between an employer and those employed by him as to such employment; or

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

(2) Nothing in this Act shall be deemed to authorize a trade union to act contrary to, or in excess of the powers conferred upon it by, its rules.

## PART XI

### MISCELLANEOUS

#### **67. Legislation relating to societies and companies not applicable to trade unions.**

(1) The Societies Act, 1966, and of any other written law providing for the registration or recording of societies shall not apply to a trade union registered under this Act, and the registration under any such written law of a trade union shall thereupon be deemed to have been cancelled and of no effect for the purposes of this Act.

(2) No association or combination of workmen or employers having among its objects one or more of the objects set out in paragraph (c) of the DEFINITION of "trade union" in section 2 (1) other than the regulation of relations between workmen and workmen or between employers and employers as the case may be, shall be registered as a society under the Societies Act, 1966 or under any other written law providing for the registration or recording of societies; and any such association or combination (not being a registered trade union or exempt from this section by any order made under subsection (4)) shall be deemed to be an unlawful society for the purposes of such Act and such other written law.

*[Am. Act A717]*

(3) No company registered under any written law relating to companies in Malaysia shall be eligible to apply for registration as a trade union; and no trade union shall be registered as a company under any such written law, and any such registration shall thereupon be deemed to have cancelled and of no effect for the purposes of this Act.

(4) The Minister may by order exempt, either absolutely or subject to such conditions as he may think fit, any association or combination of workmen or employers from all or any of



the provisions of this section.

**PART XI**

**MISCELLANEOUS**

**68. Service of legal process.**

Every summons, notice or other document required to be served on a trade union in any civil or criminal proceeding 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 is otherwise in compliance with the requirements of any relevant written law.

**PART XI**

**MISCELLANEOUS**

**68A. Service of summons issued by the director General.**

(1) A summons issued by the Director General under section 71 may be served personally, if practicable, on the person summoned by showing him the original summons and by tendering or delivering to him a copy of the summons.

(2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt for the copy of the summons on the back of the original summons.

(3) In the case of a corporation the summons may be served on the secretary or other like officer of the corporation.

(4) Where the person to be summoned cannot by the exercise of due diligence be found the summons may be served by leaving a copy of the summons for him with some adult member of his family or with his servant residing with him.

(5) Where the person to be summoned cannot by the exercise of due diligence be found and service cannot be effected in the manner provided for in subsection (4), the serving officer shall affix a copy of the summons to some conspicuous part of the house or other place in which the person summoned ordinarily resides, and in such case the summons shall be deemed to have been duly served.

(6) When a summons issued is served under this section, an affidavit of such service purported to be made before an officer duly authorized to administer an oath shall be admissible in evidence.

*[Ins. Act A1324]*

**PART XI**

**MISCELLANEOUS**

**69. Notification in Gazette.**

The fact that any trade union has been registered, the fact that the certificate of registration of any registered trade union has been withdrawn or cancelled, the fact that any change of name or amalgamation affecting any registered trade union has been registered, the fact that any change in the situation of the registered office of a trade union has been registered, and the fact that any registered trade union has been dissolved shall be notified by the Director General in the *Gazette*.

**PART XI**

**MISCELLANEOUS**

**70. Inspection, production and evidence of documents of the Director General.**

(1) A certificate of registration of a trade union or any other document in the possession of the Registrar received from any trade union by virtue of its being required to be submitted to the Director General under this Act or any regulations, may, with the approval of the Director General, be inspected by any person on payment of the prescribed fee, and any person may, on payment of the prescribed fee, obtain from the Director General a certified copy or extract of the certificate of registration of any registered trade union or a certified copy of or extract from any other document as aforesaid in the possession of the Director General.

Provided that the Director General may in his absolute discretion and without assigning any reason therefor refuse to grant approval for the inspection of any document or refuse to supply a copy or an extract of any document.

(2) No process for compelling the production of any document kept by the Director General shall issue from any court except with the leave of that court, and any such process if issued shall bear a statement thereon that it is issued with the leave of that court.

(3) A copy of or extract from any document kept and registered at the office of the Director General, certified to be a true copy under the hand and seal of the Director General, shall in all legal proceedings be admissible in evidence as of equal validity with the original document.

**PART XI**

**MISCELLANEOUS**

## **71. Power of Director General to summon witnesses.**

(1) The Director General may summon before him any person who he has reason to believe is able to give any information-

(a) as to the existence of or as to the operations of any trade union or suspected trade union, which is not registered under this Act; or

(b) as to the activities of any registered trade union.

(2) The person so summoned shall attend at the hour and place in the summons specified, and produce all documents in his custody, possession or power relating to such trade union or suspected trade union, and answer truthfully all questions which the Director General may put to him.

(3) The Director General may administer oaths to and examine on oath any person summoned before him under this section.

(4) Any person who refuses to comply with such order or who obstructs compliance with such order may be arrested and detained in custody and shall, on conviction, be liable to a fine not exceeding five hundred ringgit.

(5) No statement made by a person summoned before the Director General under this section shall subject him to any arrest or criminal prosecution, or be proved against him in any criminal proceeding, except a prosecution for failing to answer truthfully under this section.

## **PART XI**

### **MISCELLANEOUS**

#### **71A. Appeal to Minister.**

(1) Any person who is dissatisfied with any opinion, order, declaration, refusal, cancellation, withdrawal, director or decision, as the case may be, given, made or effected by the Director General under any of the following provisions:

(a) section 2 (2);

(b) section 12;

(c) section 15 (2)(b) or section 15 (4);

(d) section 16 (1);

(e) section 17 (1);

(f) section 25A (4);

(g) section 28 (1) (d), or section 29 (2) (b);

(h) section 34 (2);

(i) section 40 (6) or 40 (9);

(j) section 54 (1);

(k) section 76A (1); or

(l) section 76C (1), may, within thirty days from the date of the opinion, order, declaration, refusal, cancellation, withdrawal, direction or decision of the Director General, appeal against the same to the Minister, in such manner as may be prescribed by regulations.

(2) An appeal under subsection (1) shall not operate as a stay of execution of the opinion, order, declaration, refusal, cancellation, withdrawal, direction or decision, as the case may be, of the Director General unless the Minister otherwise directs, and where he so directs he may impose such terms and conditions as he deems fit.

(3) The Minister may, after considering any such appeal, give such decision thereon as he deems just and proper.

(4) A direction or decision of the Minister under this section shall be final and conclusive.

## **PART XII**

### **FEDERATION OF TRADE UNIONS**

#### **72. Formation of federation of trade unions.**

Two or more registered trade unions in Malaysia whose members are employed in a similar trade, occupation or industry may form or create a federation of trade unions if the consent of the members of each of the registered trade unions wishing to form or create a federation has been obtained by a majority of votes taken at a general meeting or a meeting of delegates, as the case may be, after service on the Director General and all members of the union, not less than fourteen days prior to such meeting, of notice of the proposed resolution to participate in the federation.

## **PART XII**

### **FEDERATION OF TRADE UNIONS**

### **73. Registration of federation of trade unions.**

- (1) Every federation of trade unions established after the commencement of this Act shall apply to be registered within one month from the date on which it was so established.
- (2) Every application for registration under this section shall be signed by the secretary and by seven members of each and every registered trade union forming or creating such federation.
- (3) Upon receipt of any such application the Director General shall, if satisfied that this section and section 72 have been complied with and that the federation is entitled to registration, register the federation.
- (4) The Director General may, if he thinks fit, from time to time, grant an extension of the period specified in subsection (1), provided that no such period shall in any particular case, be so extended as to exceed a period of six months in the aggregate.
- (5) For the purposes of this section-

*(a)* a federation of trade unions shall be deemed to have been established before the commencement of this Part if resolutions agreeing to form or create such federation have been passed substantially in the manner provided by section 72 by at least two registered trade unions before the date of such commencement;

*(b)* a federation of trade unions established after the commencement of this Act shall be deemed to be established on the date on which resolutions are passed in the manner hereinbefore provided by at least two registered trade unions agreeing to form or create such federation:

Provided that, in the event of the resolutions being passed on different dates, the date of the establishment of such federation shall be deemed to be the date of the passing of the second of such resolutions.

## **PART XII**

### ***FEDERATION OF TRADE UNIONS***

### **74. Affiliation with registered federation of trade unions.**

- (1) A registered trade union may affiliate with a registered federation of trade unions representing similar trades, occupations or industries if the consent of the members of the trade union to such affiliation has been obtained in the manner provided in section 72, and the federation of trade unions files with the Director General a notice, signed by the secretary of the federation, that the application to affiliate has been duly approved by the federation.

(2) Notice in writing of any resolution for affiliation passed by a registered trade union under subsection (1) signed by the secretary and by seven members of such union shall be filed with the Director General within one month of the date of the passing of such resolution.

(3) Upon the filing of both the notices referred to in subsections (1) and (2) the Director General shall, if satisfied that the provisions of this section have been complied with and that the trade union is entitled to affiliate with the federation, enter the fact of such affiliation in the register, and thereupon the trade union shall be deemed to be a member of the federation as from the date of acceptance of such affiliation by the federation.

*[Am. Act A717]*

## **PART XII**

### **FEDERATION OF TRADE UNIONS**

#### **75. Provisions and penalties applicable to federation of trade unions.**

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

## **PART XII**

### **FEDERATION OF TRADE UNIONS**

#### **76. Decisions by secret ballot.**

The provisions of this Act relating to the taking of decisions by secret ballot shall apply to a federation of trade unions as if the individual members of the trade unions comprised in the federation were the members of that federation and not the unions, except in the matter of the election of officers, who shall be elected by secret ballot of the delegates representing the component unions.

## **PART XIIA**

### **CONSULTATIVE BODIES**

#### **76A. Restriction on the formation of or affiliation with consultative or similar bodies.**

(1) No trade union registered under this Act shall affiliate with, or be a member of, any consultative or similar body, by whatever name called, established outside Malaysia, except with the prior permission in writing of the Director General and subject to such conditions as he may impose:

Provided that no such permission shall be given where the Director General is satisfied-

(a) that such body pursues or intends to pursue any of the objects specified in the DEFINITION of "trade union" in section 2(1) other than the regulation of relations between workmen and workmen or between employers and employers, as the case may be; or.

(b) that the consent of the members of the union has not been obtained by a majority of votes taken at a general meeting or a meeting of delegates, after service on the members or delegates, as the case may be, not less than fourteen days prior to such meeting, of notice of the proposed resolution to affiliate with, or be a member of, such consultative or similar body.

(2) (a) A registered trade union may form with any other registered trade union, affiliate with, or be a member of, any consultative or similar body, by whatever name called, established within Malaysia, that does not pursue or intend to pursue any of the objects specified in the DEFINITION of "trade union" in section 2 (1) other than the regulation of relations between workmen and workmen or between employers and employers, as the case may be, if the consent of the members of the registered trade union has been obtained by a majority of votes taken at a general meeting or a meeting of delegates, after service on the members or delegates, as the case may be, not less than fourteen days prior to such meeting, of notice of the proposed resolution to form, affiliate with, or be a member of, such consultative or similar body.

(b) The trade union concerned shall within sixty days of the formation, affiliation or membership referred to in paragraph (a) notify the Director General in writing of such formation, affiliation or membership and such notification shall be accompanied with a statement of the particulars referred to in section 76B (2).

(3) Where any registered trade union is already affiliated with, or is a member of, any consultative or similar body, established outside or within Malaysia, under the repealed provisions of this

Act immediately before the commencement of this subsection, the trade union shall be deemed to have obtained the permission of the Director General referred to in subsection (1) or to have notified the Director General as required under subsection (2), as the case may be.

## **PART XIIA**

### **CONSULTATIVE BODIES**

#### **76B. Application for permission to form or affiliate with consultative bodies.**

(1) Every application for the permission of the Registrar referred to in section 76A (1) shall

be made to the Registrar in the prescribed form and shall be signed by at least three principal officers of the union.

(2) Every application under subsection (1) shall be accompanied by a copy of the constitution and rules of the consultative or similar body and a statement of the following particulars, namely:

(a) the name of such body and the address of its head office;

(b) the objects for which such body is established;

(c) the title, name, date of birth, address and occupation of each office-bearer of such body and such other information and particulars regarding such officebearer as the Director General may require to be furnished; and

(d) such other information and particulars whatsoever relating to such body or to any person connected therewith or to the application as the Registrar may require to be furnished.

## **PART XIIA**

### **CONSULTATIVE BODIES**

#### **76C. Power of Director General to withdraw permission or declare affiliation invalid.**

*[Am. Act A717]*

Where the Director General is satisfied that-

(a) any trade union which is affiliated with, or is a member of, any consultative or similar body; or

(b) the consultative or similar body with which such trade union is affiliated, or of which it is a member,

has acted or is acting in contravention of any provision of this Act or any other written law or any condition imposed by him, he may -

(a) in the case of a trade union to which permission has been granted under section 76A (1), withdraw such permission; or

(b) in the case of a trade union which has given notification to the Director General under section 76A (2), declare such affiliation or membership to be invalid,

and upon such withdrawal or declaration, such trade union shall forthwith cease its



affiliation with, or membership of, such consultative or similar body.

## **PART XIIA**

### ***CONSULTATIVE BODIES***

#### **76D. Duty to inform the Director General of appointment to an office or employment in consultative bodies.**

(1) If any member, officer or employee of a trade union holds any office in, or is employed by, any consultative or similar body, whether within or outside Malaysia, immediately before or after the commencement of this Part, he shall within sixty days of the commencement of this Part, or within sixty days of his appointment to the office or of his employment, as the case may be, inform the Director General of such appointment or employment:

Provided that such information shall not absolve him from any requirement under any written law relating to such appointment or employment.

(2) A person who has been a member of the executive of any trade union the registration of which has been cancelled under this Act shall not hold office in or be employed by any consultative or similar body except with the permission in writing of the Minister and subject to such conditions as he may impose.

## **PART XIIA**

### ***CONSULTATIVE BODIES***

#### **76E. Application of Societies Act, 1966 to consultative body.**

Nothing in this Part shall render or be construed as rendering inapplicable to a consultative or similar body referred to in this Part the provisions of the Societies Act, 1966 or any other written law relating to the registration or recording of societies.

## **PART XIIA**

### ***CONSULTATIVE BODIES***

#### **76F. Interpretation of consultative or similar body.**

For the purpose of this Part the expression "consultative or similar body" includes any trade union council, trade union co-ordinating or advisory body, trade secretariat or any other organisation composed of trade unions other than a federation of trade unions registered or required to be registered under Part XII.

## PART XIII

### **TRANSITORY PROVISIONS AND REPEAL**

#### **77. Transitory provisions relating to existing trade unions.**

(1) Subject to the provisions of this section, every trade union registered under the Trade Unions Enactment, 1940, immediately before the date of the coming into force of this Act (hereinafter in this section referred to as an existing trade union) shall during the period of six months following the date of such coming into force, be deemed to be registered under this Act.

(2) During the period of six months from the date of the coming into force of this Act an existing trade union may deliver to the Director General an application for registration under section 8, together with a general statement of the assets and liabilities of such trade union prepared in such form and containing such particulars as may be prescribed:

Provided that such application need not be accompanied by the copy of the rules and the particulars required by section 10 (2) unless the Director General, within one month from the date upon which such application is made, shall so require.

(3) An existing trade union shall not be registered unless the Director General is satisfied that it complies with this Act.

(4) In the event of an existing trade union failing to deliver an application for registration pursuant to subsection (2) within the period of six months from the date of the coming into force of this Act it shall immediately upon the expiration of such period be deemed to be dissolved, and its funds shall be disposed of in accordance with the rules of the union.

## PART XIII

### **TRANSITORY PROVISIONS AND REPEAL**

#### **78. Transitory provisions relating to existing federation.**

(1) Subject to this section, every federation of trade unions registered under the Trade Unions Enactment, 1940 of the Federated Malay States, as extended to have effect throughout the Federation by the Trade Unions Ordinance, 1946, and the Trade Unions Ordinance 1946 the Trade Unions and Trade Disputes Ordinance of Sabah, the Trade Unions Ordinance of Sarawak, as the case may be, immediately before the date of the coming into force of this Act (hereinafter in this section referred to as an existing federation) shall during the period of six months following the date of such coming into force be deemed to be registered under this Act.

(2) During the period of six months from the date of the coming into force of this Act an existing federation may deliver to the Director General an application for registration under section 73; and no such existing federation shall be registered unless the Director

General is satisfied that it complies with and has been established in a manner substantially in accord with section 72.

(3) In the event of an existing federation failing to deliver an application for registration pursuant to subsection (2) within the period of six months from the date of the coming into force of this Act it shall immediately upon the expiration of such period be deemed to be dissolved, and its funds shall be disposed of in such manner as may be prescribed.

## **PART XIII**

### ***TRANSITORY PROVISIONS AND REPEAL***

#### **79. Repeal.**

The Trade Unions Enactment, 1940, of the Federated Malay States, as extended to have effect throughout the Federation by virtue of the Trade Unions Ordinance, 1946, the Trade Unions Act 1965, the Trade Unions and Trade Disputes Ordinance of Sabah and the Trade Unions Ordinance of Sarawak are hereby repealed:

Provided that all appointments, regulations, rules made and all certificates issued under such Enactment as so extended and in force at the commencement of this Act shall continue in force and have effect as if they had been made or issued under this Act until other provisions shall be made under this Act.

#### Validation

A trade union whose membership consists of workmen employed in a place of business or employment of an employer, including any division or branch of the place of business or employment and which was registered prior to 5 May 1989, being the date the term “establishment” as defined in section 2 of the principal Act came into operation, shall for all purposes be deemed to have been validly and lawfully registered and continue to exist as if it had been registered under the principal Act on 5 May 1989.