

LAWS OF PITCAIRN, HENDERSON, DUCIE
AND OENO ISLANDS

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CHAPTER XXIII

**TRADE UNIONS AND TRADE DISPUTES
ORDINANCE**

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SCHEDULE

Ordinances No:
1 of 1959.
2 of 1985.

An ordinance relating to trade unions and trade disputes.

[3rd June, 1959]

PART I—GENERAL

Short title.

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

Interpretation.

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

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

Provided that nothing in this ordinance—

(a) shall affect—

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

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

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

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

“registered” means registered under this ordinance;

“Registrar” means the Registrar of Trade Unions.

Trade unions not criminal.

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

Trade unions not unlawful for civil purposes.

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

PART II—REGISTRATION OF TRADE UNIONS

Trade union prohibited from carrying on business unless registered.

5.—(1) No trade union or any member thereof shall perform

any act in furtherance of the purposes for which it has been formed unless such trade union has first been registered.

(2) Any trade union or any officer or member thereof who contravenes the provisions of this section shall be guilty of an offence punishable with a fine not exceeding two hundred and fifty dollars.

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

Registrar of trade unions.

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

Registration of trade unions.

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

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

Compulsory registration.

(a) of its formation; or

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

whichever is the later date.

(2) Every trade union which is not registered or dissolved within the period prescribed in subsection (1) and every officer thereof shall be guilty of an offence punishable with a fine not exceeding fifty dollars for every day it remains unregistered after the expiration of such period.

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

Rules for registry.

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

(b) the Registrar upon being satisfied that the trade union has complied with the rules respecting registry in force under this ordinance shall, subject to the provisions of section 10, register the trade union and rules;

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

(d) the Registrar upon registering a trade union shall

issue a certificate of registration.

Refusal of
registration.

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

- (a) the applicants have not been duly authorized to apply for registration; or
- (b) the purposes of the trade union are unlawful; or
- (c) the application is not in conformity with the provisions of this ordinance;

he may refuse registration.

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

(3) There shall be a right of appeal from a refusal of the Registrar to register a trade union to the Governor within 90 days from the date of notification of such refusal or such longer period as the Governor may for good cause allow and the decision of the Governor thereon shall be final.

Cancellation of
registration.

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

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

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

(3) There shall be a right of appeal from the decision of the Registrar under this section to the Governor within 90 days from the date of notification of such decision or such longer period as the Governor may for good cause allow and the decision of the Governor thereon shall be final.

Officers of trade
union to account.

12.—(1) Every treasurer or other officer of a registered trade union shall at such times as by the rules thereof may be prescribed, or having been required so to do, render to the members thereof, at a meeting of the trade union, a just and true account of all moneys received and paid by him or her since he or she last rendered the like account, and of the balance then remaining, and of all bonds and securities of such trade union.

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

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

(4) If the treasurer or other officer fails to hand over such things and documents as in subsection (3) required the Committee of Management of the trade union or any member for and on behalf of the trade union may sue him or her in any competent court for the balance appearing to have been due from him or her upon the account last rendered by him or her, and for all moneys since received by him or her on account of such trade union and for the securities and effects, books, papers and property in his or her hands or custody, leaving him or her to set off in such action the sums, if any, which may have been since paid on account of such trade union; and in any such action the plaintiff shall be entitled to recover full costs of suit to be taxed as between solicitor and client.

13.—(1) Every registered trade union shall transmit to the Registrar the account prepared and audited in accordance with section 12 within three months of its submission to the members of the trade union, or within such longer period as the Registrar may for good cause allow.

Audited accounts to be sent to Registrar.

(2) Every officer of a registered trade union which fails to comply with the provisions of subsection (1) shall be guilty of an offence punishable with a fine not exceeding two hundred and fifty dollars.

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

Rules of registered trade unions.

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

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

Alteration of rules of registered trade unions.

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

matters in the Schedule.

Rules by Governor.

16. The Governor may make rules respecting registration under this ordinance and in particular but without prejudice to the generality of the foregoing power with respect to—

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

PART II—TRADE DISPUTES

Definitions.

17. In this Part—

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

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

Immunity of trade unions from actions of tort.

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

(2) Nothing in this section shall affect the liability of a trade union or any official thereof to be sued in any Court touching or concerning the property or rights of a trade union, except in respect of any tortious act committed by or on behalf of the union in contemplation or in furtherance of a trade dispute.

Conspiracy in relation to trade disputes.

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

(2) An act done in pursuance of an agreement or combination by two or more persons shall, if done in contemplation or

furtherance of a trade dispute, not be actionable unless the act, if done without any such agreement or combination, would be actionable.

(3) Nothing in this section shall exempt from punishment any person guilty of a conspiracy for which a punishment is awarded by any law in force in the Islands.

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

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

(6) Where a person is convicted of any such agreement or combination as aforesaid to do or procure to be done an act which is punishable on summary conviction, and is sentenced to imprisonment, the imprisonment shall not exceed three months, or such longer time, if any, as may have been prescribed by the law for the punishment of the said act when committed by one person.

20. An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable on the ground only that it induces some other person to break a contract of employment or that it is an interference with the trade, business or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills.

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

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

Intimidation or annoyance.

- (a) uses violence to or intimidates such other person or the spouse or children of such other person, or injures the property of that other person; or
- (b) persistently follows such other person about from place to place; or
- (c) hides any tools, clothes or other property owned or used by such other person, or deprives such other person of or hinders him or her in the use thereof; or
- (d) watches or besets the house or other place where such other person resides or works or carries on business or happens to be or the approach to such house or place; or
- (e) follows such other person with two or more other

persons in a disorderly manner in or through any street or road,
shall be guilty of an offence punishable with a fine not exceeding two hundred dollars or with imprisonment for a term not exceeding three months.

Peaceful picketing and prevention of intimidation.

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

SCHEDULE

(Section 14).

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