

No. XII.

TRADE UNION. **An Act to amend the law relating to Trades Unions. [16th December, 1881.]**

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly in Parliament assembled and by the authority of the same as follows:—

Short title.

34 & 35 Vic. c. 31 s. 1.

Trade union not criminal.

34 & 35 Vic. c. 31 s. 2.

Trade union not unlawful for civil purposes.

34 & 35 Vic. c. 31 s. 3.

Trade union contracts when not enforceable.

34 & 35 Vic. c. 31 s. 4.

1. This Act may be cited as the "Trade Union Act 1881."
2. 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.
3. The purposes of any trade union shall not by reason merely that they are in restraint of trade be unlawful so as to render void or voidable any agreement or trust.
4. Nothing in this Act shall enable any Court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements namely—

- (1.) Any agreement between members of a trade union as such concerning the condition on which any members for the time being of such trade union shall or shall not sell their goods transact business employ or be employed

(2.)

Trade Union.

- (2.) Any agreement for the payment by any person of any subscription or penalty to a trade union
- (3.) Any agreement for the application of the funds of a trade union—
- (a.) To provide benefits to members or
- (b.) To furnish contributions to any employer or workman not a member of such trade union in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union or
- (c.) To discharge any fine imposed upon any person by sentence of a Court of Justice or
- (4.) Any agreement made between one trade union and another or
- (5.) Any bond to secure the performance of any of the above-mentioned agreements

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

5. The following Acts that is to say—

- (1.) The “Friendly Societies Act of 1873” and
- (2.) The Companies Act

Provisions of 37 Vic. No. 4 and 37 Vic. No. 19 not to apply to trade unions.

shall not apply to any trade union and the registration of any trade union under either of the said Acts shall be void.

Registered Trade Unions.

6. 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 Act with respect to registry register such trade union under this Act provided that if any one of the purposes of such trade union be unlawful such registration shall be void.

Registry of trade unions.
34 & 35 Vic. c. 31 s. 6.

7. It shall be lawful for any trade union registered under this Act to purchase or take upon lease in the names of the Trustees for the time being of such union any land not exceeding seven acres and to sell exchange mortgage or let the same and no purchaser assignee mortgagee or tenant shall be bound to inquire whether the Trustees have authority for any sale exchange mortgage or letting and the receipt of the Trustees shall be a discharge for the money arising therefrom and for the purpose of this section every branch of a trade union shall be considered a distinct union.

Buildings for trade unions may be purchased or leased.
34 & 35 Vic. c. 31 s. 7.

8. All real and personal estate whatsoever belonging to any trade union registered under this Act shall be vested in the Trustees for the time being of the trade union appointed as provided by this Act for the use and benefit of such trade union and the members thereof and the real or personal estate of any branch of a trade union shall be vested in the Trustees of such branch or of the Trustees of the trade union if the rules of the trade union so provide and be under the control of such Trustees their respective executors or administrators according to their respective claims and interests and upon the death or removal of any such Trustees the same shall vest in the succeeding Trustees for the same estate and interest as the former Trustees had therein and subject to the same trusts without any conveyance or assignment whatsoever and in all actions or suits or indictments or summary proceedings before any Court of summary jurisdiction touching or concerning any such property the same shall be stated to be the property of the person or persons for the time being holding the said office of Trustee in their proper names as Trustees of such trade union without any further description.

Property of the trade unions vested in Trustees.
34 & 35 Vic. c. 31 s. 8.

9. The Trustees of any trade union registered under this Act or any other officer of such trade union who may be authorised so to do by the rules thereof are hereby empowered to bring or defend or cause

Actions &c. by or against Trustees.
34 & 35 Vic. c. 31 s. 9.

Trade Union.

to be brought or defended any action suit prosecution or complaint in any Court of law or equity touching or concerning the property-right or claim to property of the trade union and shall and may in all cases concerning the real or personal property of such trade union sue and be sued plead and be impleaded in any Court of law or equity in their proper names without other description than the title of their office and no such action suit prosecution or complaint shall be discontinued or shall abate by the death or removal from office of such persons or any of them but the same shall and may be proceeded in by their successor or successors as if such death resignation or removal had not taken place and such successors shall pay or receive the like costs as if the action suit prosecution or complaint had been commenced in their names for the benefit of or to be reimbursed from the funds of such trade union and the summons to be issued to such Trustee or other officer may be served by leaving the same at the registered office of the trade union.

Limitation of
responsibility of
Trustees.

34 & 35 Vic. c. 31
s. 10.

Provision in case of
absence &c. of
Trustee.

39 & 40 Vic. c. 22
s. 4.

10. A Trustee of any trade union registered under this Act shall not be liable to make good any deficiency which may arise or happen in the funds of such trade union but shall be liable only for the moneys which shall be actually received by him on account of such trade union.

11. When any person being or having been a Trustee of a trade union or of any branch of a trade union and whether appointed before or after the legal establishment thereof in whose name any property belonging to such union or branch is standing either jointly with another or others or solely is absent from the Colony or becomes insolvent or executes any deed for liquidation of his affairs by assignment or arrangement or for composition with his creditors or becomes a lunatic or is dead or has been removed from his office of Trustee or if it be unknown whether such person is living or dead the Registrar on application in writing from the Secretary and three members of the union or branch and on proof satisfactory to him may direct the transfer of the property into the names of any other persons as Trustees for the union or branch and such transfer shall be made by the surviving or continuing Trustees and if there be no such Trustee or if such Trustees refuse or be unable to make such transfer then by such person as the Registrar shall direct and such person is hereby indemnified for anything done by him in pursuance of this provision against any claim or demand of any person injuriously affected thereby.

Treasurers &c. to
account.

34 & 35 Vic. c. 31
s. 11.

12. Every Treasurer or other officer of a trade union registered under this Act at such times as by the rules of such trade union he should render such account as hereinafter mentioned or upon being required so to do shall render to the Trustees of the trade union or to the members of such trade union at a meeting of the trade union a just and true account of all moneys received and paid by him since he last rendered the like account and of the balance then remaining in his hands and of all bonds or securities of such trade union which account shall be audited by some fit and proper person or persons to be appointed by the trade union or branch and such Treasurer if thereunto required upon the said account being audited shall forthwith hand over to the Trustees the balance which on such audit appears to be due from him and shall also if required hand over to such Trustees all securities and effects books papers and property of the said trade union in his hands or custody and if he fail to do so the Trustees of the said trade union may sue such Treasurer in any competent court for the balance appearing to have been due from him upon the account last rendered by him and for all the moneys since received by him on account of the said trade union and for the securities and effects books papers and property in his hands or custody leaving him to set off in such action the sums if any which
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Trade Union.

he may have since paid on account of the said trade union and in such action the said Trustees shall be entitled to recover their full costs of suit to be taxed as between attorney and client.

13. If any officer member or other person being or representing himself to be a member of a trade union registered under this Act or the nominee executor administrator or assignee of a member thereof or any person whatsoever by false representation or imposition obtain possession of any moneys securities books papers or other effects of such trade union or having the same in his possession wilfully withhold or fraudulently misapply the same or wilfully apply any part of the same to purposes other than those expressed or directed in the rules of such trade union or any part thereof the Court of summary jurisdiction for the place in which the registered office of the trade union is situate or the court of summary jurisdiction for the place where the offence has been committed upon a complaint made by any person on behalf of such trade union or by the Registrar may by summary order order such officer member or other person to deliver up all such moneys securities books papers or other effects to the trade union or to repay the amount of money applied improperly and to pay if the court think fit a further sum of money not exceeding twenty pounds together with costs not exceeding twenty shillings and in default of such delivery of effects or repayment of such amount of money or payment of such penalty and costs as aforesaid the said Court may order the said person so convicted to be imprisoned with or without hard labour for any time not exceeding three months Provided that nothing herein contained shall prevent the said trade union from proceeding by indictment against the said party provided also that no person shall be proceeded against by indictment if a conviction shall have been previously obtained for the same offence under the provisions of this Act.

Punishment for withholding money &c.
34 & 35 Vic. No. 31
s. 12.

Registry of Trade Unions.

14. With respect to the registry under this Act of a trade union and of the rules thereof the following provisions shall have effect—

Regulations for registry.
34 & 35 Vic. c. 31
s. 13.

- (1.) An application to register the trade union and printed copies of the rules together with a list of the titles and names of the officers shall be sent to the Registrar under this Act.
- (2.) The Registrar upon being satisfied that the trade union has complied with the regulations respecting registry in force under this Act shall register such trade union and such rules.
- (3.) 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 or the public.
- (4.) Where a trade union applying to be registered has been in operation for more than a year before the date of such application there shall be delivered to the Registrar before the registry thereof a general statement of the receipts funds effects and expenditure of such trade union in the same form and showing the same particulars as if it were the annual general statement required as hereinafter mentioned to be transmitted annually to the Registrar.
- (5.) The Registrar upon registering such trade union shall issue a certificate of registry which certificate unless proved to have been withdrawn or cancelled shall be conclusive evidence that the regulations of this Act with respect to registry have been complied with.
- (6.) The Governor with the advice of the Executive Council may from time to time make regulations respecting registry under this Act and respecting the seal (if any) to be used for the purpose

Trade Union.

purpose of such registry and the forms to be used for such registry and the inspection of documents kept by the Registrar under this Act and respecting the fees if any to be paid on registry not exceeding the fees specified in the Second Schedule to this Act and generally for carrying this Act into effect.

Withdrawing or
cancelling of
certificate.
39 & 40 Vic. c. 22
s. 8.

15. No certificate of registration of a trade union shall be withdrawn or cancelled otherwise than by the Registrar and in the following cases—

- (1.) At the request of the trade union to be evidenced in such manner as such Registrar shall from time to time direct
- (2.) On proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake or that the registration of the trade union has become void under section six of this Act or that such trade union has wilfully and after notice from the Registrar violated any of the provisions of this Act or has ceased to exist

Not less than two months previous notice in writing specifying briefly the ground of any proposed withdrawal or cancelling of certificate (unless where the same is shown to have become void as aforesaid in which case it shall be the duty of the Registrar to cancel the same forthwith) shall be given by the Registrar to a trade union before the certificate of registration of the same can be withdrawn or cancelled (except at its request) A trade union whose certificate of registration has been withdrawn or cancelled shall from the time of such withdrawal or cancelling absolutely cease to enjoy as such the privileges of a registered trade union but without prejudice to any liability actually incurred by such trade union which may be enforced against the same as if such withdrawal or cancelling had not taken place.

Rules of registered
trade unions.
34 & 35 Vic. c. 31
s. 14.

16. With respect to the rules of a trade union registered under this Act the following provisions shall have effect—

- (1.) The rules of every such trade union shall contain provisions in respect of the several matters mentioned in the First Schedule to this Act.
- (2.) A copy of the rules shall be delivered by the trade union to every person on demand on payment of a sum not exceeding one shilling.

Registered office of
trade unions.
34 & 35 Vic. c. 31
s. 15.

17. Every trade union registered under this Act shall have a registered office to which all communications and notices may be addressed if any trade union under this Act is in operation for seven days without having such an office such trade union and every officer thereof shall incur a penalty not exceeding five pounds for every day during which it is so in operation Notice of the situation of such registered office and of any change therein shall be given to the Registrar and recorded by him until such notice is given the trade union shall not be deemed to have complied with the provisions of this Act.

Annual returns to be
prepared as Registrar
may direct.
34 & 35 Vic. c. 31
s. 16.

18. A general statement of the receipts funds effects and expenditure of every trade union registered under this Act shall be transmitted to the Registrar before the first day of June in every year and shall show fully the assets and liabilities at the 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 as the Registrar 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 Together with such general statement there shall be sent to the registrar a copy of all alterations of rules and new rules changes
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Trade Union.

of officers made by the trade union during the year preceding the date up to which the general statement is made out and a copy of the rules of the trade union as they exist at that date Every trade union which fails to comply with or acts in contravention of this section and also every officer of the trade union so failing shall each be liable to a penalty not exceeding five pounds for each offence Every person who wilfully makes or orders to be made any false entry in or any omission from any such general statement or in or from the return of such copies of rules or alterations of rules shall be liable to a penalty not exceeding fifty pounds for each offence.

19. A person under the age of twenty-one years but above the age of sixteen may be a member of a 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 committee of management trustee or treasurer of the trade union or be allowed to vote at any meeting thereof until he is eighteen years of age.

Membership of
minors.
39 & 40 Vic. c. 22
s. 9.

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

Nomination.
39 & 40 Vic. c. 22
s. 10.

21. A trade union may with the approval in writing of the Registrar change its name by the consent of not less than two-thirds of the total number of members No change of name shall affect any right or obligation of the trade union or of any member thereof and any pending legal proceedings may be continued by or against the Trustees of the trade union or any other officer who may sue or be sued on behalf of such trade union notwithstanding its new name.

Change of name.
39 & 40 Vic. c. 22
s. 11.

22. Any two or more trade unions may by the consent of not less than two-thirds of the members of each or every such trade union become amalgamated together as one trade union with or without any dissolution or division of the funds of such trade unions or either or any of them but no amalgamation shall prejudice any right of a creditor of either or any union party thereto.

Amalgamation.
39 & 40 Vic. c. 22
s. 12.

23. Notice in writing of every change of name or amalgamation signed in the case of a change of name by seven members and countersigned by the secretary of the trade union changing its name and accompanied by a statutory declaration by such secretary that the provisions of this Act in respect of changes of name have been complied with and in the case of an amalgamation signed by seven members and countersigned by the secretary of each or every union party thereto and accompanied by a statutory declaration by each or every such secretary that the provisions of this Act in respect of amalgamations have been complied with shall be sent to the office of the Registrar and registered there and until such change of name or amalgamation is so registered the same shall not take effect.

Registration of
changes of names
and amalgamations.
39 & 40 Vic. c. 22
s. 13.

24. The rules of every trade union shall provide for the manner of dissolving the same and notice of every dissolution of a trade union under the hand of the secretary and seven members of the same shall be sent within fourteen days thereafter to the Registrar and shall be registered by him.

Dissolution.
39 & 40 Vic. c. 22
s. 14.

Trade Union.

Penalty for failure to give notice.
39 & 40 Vic. c. 22 s. 15.

25. A trade union which fails to give any notice or send any document which it is required by this Act to give or send and every officer or other person bound by the rules thereof to give or send the same or if there be no such officer then every member of the committee of management of the union unless proved to have been ignorant of or to have attempted to prevent the omission to give or send the same is liable to a penalty of not less than one pound and not more than five pounds recoverable at the suit of the Registrar or of any person aggrieved and to an additional penalty of the like amount for each week during which the omission continues.

Registrars.
34 & 35 Vic. c. 31 s. 17.

26. The Registrar of Friendly Societies under the "Friendly Societies Act of 1873" shall be the Registrar under this Act. The Registrar shall lay before Parliament annual reports with respect to the matters transacted by such Registrar in pursuance of this Act.

Circulating false copies of rules &c. a misdemeanor.
34 & 35 Vic. c. 31 s. 18.

27. If any person with intent to mislead or defraud gives to any member of a trade union registered under this Act or to any person intending or applying to become a member of such trade union a copy of any rules or of any alterations or amendments of the same other than those respectively which exist for the time being on the pretence that the same are the existing rules of such trade union or that there are no other rules of such trade union or if any person with the intent aforesaid gives a copy of any rules to any person on the pretence that such rules are the rules of a trade union registered under this Act which is not so registered every person so offending shall be deemed guilty of a misdemeanor.

Legal Proceedings.

Summary proceedings for offences penalties &c.
34 & 35 Vic. c. 31 s. 19.

28. All offences and penalties under this Act may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts. Summary orders under this Act may be made and enforced on complaint before a Court of Summary Jurisdiction in manner provided by the Summary Jurisdiction Acts. Provided as follows—

- (1.) The "Court of Summary Jurisdiction" when hearing and determining informations or complaints shall be constituted by a Police Magistrate.
- (2.) The description of any offence under this Act in the words of such Act shall be sufficient in law.
- (3.) Any exception exemption proviso excuse or qualification whether it does or not accompany the description of the offence in this Act may be proved by the defendant but need not be specified or negatived in the information and if so specified or negatived no proof in relation to the matters so specified or negatived shall be required on the part of the informant or prosecutor.

Appeal to Quarter Sessions.
34 & 35 Vic. c. 31 s. 20.

29. If any party feels aggrieved by any order or conviction made by a Court of Summary Jurisdiction on determining any complaint or information under this Act the party so aggrieved may appeal therefrom subject to the conditions and regulations following—

- (1.) The appeal shall be made to the next Court of Quarter Sessions nearest to the place in which the cause of appeal has arisen holden not less than fifteen days and not more than four months after the decision of the Court from which the appeal is made.
- (2.) The appellant shall within seven days after the cause of appeal has arisen give notice to the other party and to the Court of Summary Jurisdiction of his intention to appeal and of the ground thereof.

(3.)

Trade Union.

- (3.) The appellant shall immediately after such notice enter into a recognizance before a Justice of the Peace in the sum of ten pounds conditioned personally to try such appeal and to abide the judgment of the Court thereon and to pay such costs as may be awarded by the Court.
- (4.) Where the appellant is in custody the Justice may if he think fit on the appellant entering into such recognizance as aforesaid release him from custody.
- (5.) The Court of Appeal may adjourn the appeal and upon the hearing thereof may confirm reverse or modify the decision of the Court of Summary Jurisdiction or remit the matter to the Court of Summary Jurisdiction with the opinion of the Court of Appeal thereon or make such other order in the matter as the Court thinks just and if the matter be remitted to the Court of Summary Jurisdiction the said last-mentioned Court shall thereupon rehear and decide the information or complaint in accordance with the opinion of the said Court of Appeal. The Court of Appeal may also make such order as to the costs to be paid by either party as the Court thinks just.

30. A person who is a master or father son or brother of a master in the particular manufacture trade or business in or in connection with which any offence under this Act is charged to have been committed shall not act as a Court of Summary Jurisdiction or Appeal for the purposes of this Act.

Interested persons not to act as a Court of Appeal.
34 & 35 Vic. c. 31 s. 22.

Definitions.

31. In this Act the term "Summary Jurisdiction Acts" means as follows—

The Act of the Session of the eleventh and twelfth years of the reign of Her present Majesty chapter forty-three intituled "*An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions within England and Wales with respect to summary convictions and orders*" adopted by the Act fourteen Victoria number forty-three and any Acts amending the same.

Definitions as to the term "Summary Jurisdiction Acts."
34 & 35 Vic. c. 31 s. 23.

The term "Trade Union" means any combination whether temporary or permanent for regulating the relations between workmen and employers or between workmen and workmen or between employers and employers or for imposing restrictive conditions on the conduct of any trade or business whether such combination would or would not if this Act had not been passed 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 this Act shall not affect—

As to Trade Union.
39 & 40 Vic. c. 22 s. 16.

- (1.) Any agreement between partners as to their own business.
- (2.) Any agreement between an employer and those employed by him as to such employment.
- (3.) Any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession trade or handicraft.

Proviso.
34 & 35 Vic. c. 31 s. 23.

Impounding Law Amendment.

SCHEDULES.

FIRST SCHEDULE.

34 & 35 Vic. c. 31. OF matters to be provided for by the Rules of Trade Unions registered under this
37 Vic. No. 4 s. 40. Act—

- (1.) The name of the Trade Union and place of meeting for the business of the Trade Union.
- (2.) The whole of the objects for which the Trade Union is to be established the purposes for which the funds thereof shall be applicable 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 such 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 trustee or trustees treasurer and other officers.
- (5.) A provision for the investment of the funds and for an annual or periodical audit of accounts.
- (6.) 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.

SECOND SCHEDULE.

Maximum Fees.

	£	s.	d.
For registering Trade Union
For registering alteration in rules
For inspection of Documents
	1	0	0
	0	10	0
	0	2	6