

TRADE UNIONS AND EMPLOYERS' ORGANIZATIONS ACT, 1983

No. 23



of 1983

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FIRST SCHEDULE

SECOND SCHEDULE

An Act to re-enact with amendments the law relating to trade unions to make better provision therefor and for federations of trade unions and employers' organizations and for matters connected therewith and incidental thereto

Date of Assent: 31.8.83

Date of Commencement: on Notice.

ENACTED by the Parliament of Botswana.

PART I. Preliminary

Short title
and com-
mencement

1. This Act may be cited as the Trade Unions and Employers' Organizations Act, 1983, and shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint.

Interpreta-
tion

2. (1) In this Act, unless the context otherwise requires, —
"branch" includes a sub-branch;
"Commissioner of Labour" means the person for the time being holding, acting in or lawfully performing the functions of the public office of Commissioner of Labour;
"constitution" includes rules;
"contract of employment" means an agreement, whether oral or in writing, expressed or implied, whereby one person agrees for a wage or other benefit or both to let his labour to and perform it under the orders of another person who agrees to

hire it, including a contract of apprenticeship and an indenture to learn;

“employee” means any individual who has entered into a contract of employment for the hire of his labour:

Provided that the expression does not include —

(i) a public officer; or

(ii) a person employed by a local authority unless he belongs to the industrial class;

“employer” includes the Government and every corporation established by a written law;

“employers’ organization” means an association consisting, wholly or mainly, of employers the principal objects of which include the regulation of relations between employers and employees or trade unions;

“executive committee”, in relation to a trade union, federation of trade unions or employers’ organization or any branch thereof, means the subordinate body thereof, by whatever name known, that has the management of the affairs of the trade union, federation of trade unions or employers’ organization or branch thereof as a whole between meetings of the body in which the ultimate authority of the trade union, federation of trade unions or employers’ organization or branch thereof is vested; and, where there are more than one such subordinate body, the expression includes all those subordinate bodies;

“federation of trade unions” means a federation, congress or other association, by whatever name known, of autonomous registered trade unions;

“financial year” means the period of 12 months ending on 31st December in every year;

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

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

“officer”, in relation to a trade union, federation of trade unions or employers’ organization, includes any member of its executive committee or the executive committee of a branch thereof but does not include a trustee or an auditor;

“registered employers’ organization” means an employers’ organization for the time being registered as such under this Act;

“registered federation of trade unions” means a federation of trade unions for the time being registered as such under this Act;

“registered office”, in relation to a registered trade union, federation of trade unions or employers’ organization, means the office of the trade union, federation of trade unions or employers’ organization for the time being registered as its principal office under this Act;

“registered postal address”, in relation to a trade union, federation of trade unions or employers’ organization, means the postal address of the trade union, federation of trade unions or employers’ organization for the time being registered as its postal address under this Act;

“registered trade union” means a trade union for the time being registered as such under this Act or an amalgamation of registered trade unions deemed, by virtue of section 48 (6), to be registered as a trade union in accordance with this Act;

“Registrar” means the person appointed to be the Registrar of Trade Unions and Employers’ Organizations in accordance with section 3;

“trade dispute” means any dispute or difference between an employer or employers and employees or between employees and employees in any trade or industry that is connected with the employment of those employees in that trade or industry or with the terms and conditions of or affecting that employment;

“trade union” means an organization consisting, wholly or in part, of more than 30 employees the principal objects of which include the regulation of relations between employees and employers or employers’ organizations or between employees and employees;

“unlawful industrial action” means any industrial action declared by the principal Act for the time being in force providing for the settlement of trade disputes or by the Minister under that Act to be unlawful or any lock-out, strike or action short of a strike deemed, by virtue of that Act, to be unlawful industrial action; and the words and expressions used in this definition have the meanings assigned to them respectively by that Act.

(2) For removing doubts, it is hereby declared that, in paragraph (i) of the proviso to the definition of “employee” in subsection (1), “public officer” does not include a person belonging to the industrial class or employed by a corporation established by a written law

PART II Administration

Registrar
of Trade
Unions and
Employers’
Organiza-
tions

3. (1) The Minister shall appoint a public officer, other than the Commissioner of Labour or an officer directly subordinate to the Commissioner of Labour, to be the Registrar of Trade Unions and Employers’ Organizations.

(2) The Registrar shall, subject to any directions given by the Minister, be charged with the general administration of this Act.

(3) The Minister may designate such other public officers as he thinks necessary to assist the Registrar in the administration of this Act.

(4) No suit shall lie against the Registrar for anything done or omitted to be done by him in good faith, without negligence and in the intended exercise or performance of any function conferred or imposed by this Act.

4. (1) The Registrar shall keep and maintain in such manner as the Minister may direct a register of trade unions, federations of trade unions and employers' organizations, in which shall be recorded such particulars as the Minister may direct, and such other books and documents as the Minister may direct.

Register of trade unions, federations of trade unions and employers' organizations

(2) A copy of an entry in or excerpt from the register or from any other book or document kept and maintained by the Registrar in accordance with this section, purporting to be certified under the hand of the Registrar to be a true copy, shall be *prima facie* evidence of the facts stated therein.

PART III *Registration of Trade Unions, Federations of Trade Unions and Employers' Organizations*

5. Subject to the other provisions of this Act, every trade union, federation of trade unions or employers' organization formed in Botswana shall be registered in accordance with this Act.

Trade unions, federations of trade unions and employers' organizations to be registered

6. (1) Every trade union, federation of trade unions or employers' organization formed in Botswana shall, within 28 days immediately after its formation, apply to the Registrar for registration as a trade union, federation of trade unions or employers' organization, as the case may be, under this Act.

Application for registration of trade union, federation of trade unions or employers' organization

(2) Every application for registration under this Act by a trade union, federation of trade unions or employers' organization shall be made in the prescribed form which shall be accompanied by —

(a) the prescribed fee;

(b) 3 printed or typed copies of the constitution of the trade union, federation of trade unions or employers' organization, each copy authenticated under the hand of the principal secretary of the trade union, federation of trade unions or employers' organization;

(c) in the case of an application by —

- (i) a trade union or employers' organization, one copy of the resolution by which it was formed authenticated under the hand of the principal secretary of the trade union or employers' organization; or
 - (ii) a federation of trade unions, one copy of each of the resolutions by which the members of the federation were authorized to enter into the federation authenticated under the hand of the principal secretary of the trade union in question;
 - (d) a list of the full names of all the members of the trade union, federation of trade unions or employers' organization; and
 - (e) a written statement setting out, in respect of the trade union, federation of trade unions or employers' organization, —
 - (i) its name and postal address and the location of its principal office;
 - (ii) the date of its formation; and
 - (iii) the titles, full names, ages, postal and residential addresses and occupations of those of its officers who are signatories to the application.
- (3) In the case of an application for registration under this Act by a trade union, the written statement referred to in subsection (2) (e) shall also set out the name of every employer or industry that the union claims will be bound to deal with it in terms of section 50 and particulars of every negotiating body, whether of the parent trade union or a branch thereof, to be concerned with the conclusion of collective labour agreements.

Notice of application for registration to be published

7. (1) The Registrar shall cause a notice of every application for registration made in accordance with section 6 to be published in the Gazette and in such other manner as the Minister may direct.

(2) Every notice such as is referred to in subsection (1) shall set out the particulars that have been provided by virtue of section 6 (2) (e) and shall call upon any person who objects to the registration of the trade union, federation of trade unions or employers' organization to notify the Registrar of the objection, together with the grounds thereof, within such reasonable time as shall be specified in the notice.

Penalty for failure to apply for registration

8. Where a trade union, federation of trade unions or employers' organization fails to apply for registration in accordance with section 6, every officer of the trade union, federation of trade unions or employers' organization and every person acting or purporting to act as such an officer shall be guilty of an offence and liable to a fine of P100.

Registration and issue of certificate of registration

9. (1) Subject to section 10, the Registrar shall, after considering every objection to the registration of a trade union, federation of trade unions or employers' organization notified to him within

the time specified in accordance with section 7 and after making such inquiries in the matter as he thinks fit, register the trade union, federation of trade unions or employers' organization in such manner as the Minister may direct and issue to it a certificate of registration in such form as the Minister may approve.

(2) A certificate of registration issued under this Act shall, for all purposes, unless the registration of the trade union, federation of trade unions or employers' organization to which the certificate relates is proved to have been cancelled in terms of section 12, be conclusive evidence that that trade union, federation of trade unions or employers' organization is duly registered in accordance with this Act.

(3) When and as often as the Registrar issues a certificate of registration under this Act, he shall forthwith inform the Commissioner of Labour that he has done so.

10. (1) The Registrar shall refuse to register a trade union, federation of trade unions or employers' organization under this Act, if it appears to him that its name is identical with that by which some other trade union, federation of trade unions or employers' organization has been registered or so nearly resembles such another name as to be likely to deceive or mislead any person or is otherwise misleading or undesirable, until such time as the name is altered to one acceptable to the Registrar.

(2) The Registrar shall refuse to register a trade union, federation of trade unions or employers' organization under this Act if he is satisfied that —

- (a) it has not complied with this Act or with any regulations made thereunder or with any requirement made of it by the Registrar in respect of its registration under this Act;
- (b) its constitution does not comply with the First Schedule;
- (c) any of its principal objects or any other provision of its constitution is unlawful or inconsistent with this Act or with any regulations made thereunder;
- (d) it is used or has been used for an unlawful purpose;
- (e) its funds or other property are being or have been applied in an unlawful manner or for an unlawful object or an object not authorized by this Act or its constitution;
- (f) its accounts are not being kept in accordance with this Act; or
- (g) at the date of the application for registration, any of its officers is a person who has, within the immediately preceding 5 years, been convicted of an offence under this Act, under the Trade Unions Act repealed by this Act or the principal Act for the time being in force providing for the settlement of trade disputes or involving fraud or dishonesty and finally sentenced in connexion therewith to a term of imprisonment, whether or not the same was ordered in respect of the non-payment of a fine.

(3) The Registrar shall refuse to register a trade union or federation of trade unions under this Act if he is satisfied that any of its officers is not a citizen of Botswana:

Provided that, upon application to the Registrar by a trade union or federation of trade unions for exemption from this subsection, the Registrar shall refer the application to the Minister for a decision thereon, which decision shall be final, and, where the Minister grants the application, the Registrar shall, unless he is required to refuse registration on some other ground, forthwith register the trade union or federation of trade unions under this Act, subject to such conditions as the Minister may determine.

(4) The Registrar shall refuse to register a trade union or employers' organization under this Act if he is satisfied that —

- (a) any other trade union or employers' organization registered under this Act is sufficiently representative of the interests in respect of which the application for registration is made; or
- (b) its principal objects are not in accordance with those of a trade union or employers' organization, as the case may be, as the same is defined by section 2.

Notification
of refusal
of
registration

11. (1) Where the Registrar refuses in accordance with section 10 to register a trade union, federation of trade unions or employers' organization, he shall notify the applicants in writing of the refusal and the grounds thereof and the trade union, federation of trade unions or employers' organization shall be deemed to be dissolved from the date of the notification:

Provided that, where an appeal is lodged against the refusal, the trade union, federation of trade unions or employers' organization shall be deemed to be dissolved from the date on which the appeal is dismissed or abandoned.

(2) Any person who takes part in the management or organization of a trade union, federation of trade unions or employers' organization deemed to be dissolved by virtue of this section or acts or purports to act on its behalf or as its officer shall be guilty of an offence and liable to a fine of P60 and, in the case of a continuing offence, to a further fine of P20 for every day the offence continues:

Provided that it shall not be an offence under this section for a person to take part in the management or organization of a trade union, federation of trade unions or employers' organization deemed to be dissolved by virtue of this section or to act on its behalf or as its officer for the purposes of —

- (i) any proceedings brought by or against the trade union, federation of trade unions or employers' organization;
- or

- (ii) dissolving the trade union, federation of trade unions or employers' organization and disposing of its assets in accordance with its constitution.

12. (1) The Registrar shall cancel the registration of a trade union, federation of trade unions or employers' organization registered under this Act — Cancellation of registration

- (a) at its own request upon its dissolution being verified in such manner as the Registrar may require; or
- (b) if he is directed by the Minister under section 52 to do so.

(2) The Registrar shall cancel the registration of a trade union, federation of trade unions or employers' organization registered under this Act if he is satisfied that —

- (a) it has ceased to exist;
- (b) its registration was obtained by fraud, misrepresentation or mistake;
- (c) it has wilfully contravened this Act or any regulations made thereunder;
- (d) it has wilfully, and after notice from the Registrar, allowed any provision of its constitution to continue in force which is inconsistent with this Act or any regulations made thereunder;
- (e) it has wilfully amended or failed to amend its constitution so that it does not comply with the First Schedule;
- (f) any of its principal objects or any other provision of its constitution is unlawful;
- (g) it is used or has been used for an unlawful purpose;
- (h) its funds or other property are being or have been applied in an unlawful manner or for an unlawful object or an object not authorized by this Act or its constitution; or
- (i) any of its officers is a person who has, within the immediately preceding 5 years, been convicted of an offence under this Act, under the Trade Unions Act repealed by this Act or the principal Act for the time being in force providing for the settlement of trade disputes or involving fraud or dishonesty and finally sentenced in connexion therewith to a term of imprisonment, whether or not the same was ordered in respect of the non-payment of a fine.

(3) The Registrar shall cancel the registration of a trade union or federation of trade unions registered under this Act if he is satisfied that any of its officers is not, without the consent of the Minister, a citizen of Botswana.

(4) The Registrar may cancel the registration of a trade union, federation of trade unions or employers' organization registered under this Act if he is satisfied that its accounts are not being kept in accordance with this Act.

(5) Where the constitution of a trade union registered under this Act provides for the protection and promotion of the respective sectional industrial interests of members of the trade union engaged in or working at more than one trade or calling, the Registrar may cancel the registration of the trade union if he is satisfied that it has failed to give significant effect to those provisions of its constitution which so provide.

(6) The Registrar shall not proceed under subsection (4) to cancel the registration of a trade union, federation of trade unions or employers' organization registered under this Act or proceed under subsection (5) to cancel the registration of a trade union registered under this Act unless he has first caused to be served on it notice in writing that he proposes to do so and such notice shall specify the ground on which he proposes to do so.

(7) A registered trade union, federation of trade unions or employers' organization served with a notice under subsection (6) may, within 2 months immediately following the day on which service of the notice was effected, show cause in writing lodged with the Registrar against the proposal to cancel its registration and, if such cause is shown, the Registrar may hold such inquiry as he considers necessary in the particular circumstances.

(8) Where a registered trade union, federation of trade unions or employers' organization fails to show cause under subsection (7), the Registrar may, after the expiry of the period of 2 months prescribed by that subsection but no earlier, proceed to cancel its registration.

(9) Where a registered trade union, federation of trade unions or employers' organization shows cause under subsection (7) but fails to satisfy the Registrar that its registration ought not to be cancelled, the Registrar may, after the expiry of the period of 2 months prescribed by that subsection or the expiry of the period of one month immediately following the day on which such cause was shown, whichever is later, but no earlier, proceed to cancel its registration.

(10) The Registrar shall effect the cancellation of the registration of a trade union, federation of trade unions or employers' organization registered under this Act by means of a written order which shall specify briefly the ground for the cancellation of the registration and forthwith be served on the trade union, federation of trade unions or employers' organization.

(11) Upon the cancellation of the registration of a trade union, federation of trade unions or employers' organization registered under this Act, the certificate of registration issued to it shall cease to have effect and shall be delivered to the Registrar within one month immediately following the day on which the order cancelling the registration of the trade union, federation of trade

unions or employers' organization was served on it in accordance with subsection (10):

Provided that, in the event of an appeal under section 13 against the order cancelling the registration of the trade union, federation of trade unions or employers' organization, the certificate shall cease to have effect on the dismissal or abandonment of the appeal and shall be delivered to the Registrar within one month immediately following the day on which the appeal was dismissed or abandoned.

(12) Where the certificate of registration is not delivered to the Registrar in accordance with subsection (11), every officer of the trade union, federation of trade unions or employers' organization in question immediately before the cancellation of its registration shall be guilty of an offence and liable to a fine of P100.

(13) When and as often as the Registrar cancels the registration of a trade union, federation of trade unions or employers' organization registered under this Act, he shall forthwith inform the Commissioner of Labour that he has done so.

13. (1) Where any person is aggrieved by the refusal of the Registrar in accordance with section 10 to register a trade union, federation of trade unions or employers' organization or by an order of the Registrar in terms of section 12 cancelling the registration of a trade union, federation of trade unions or employers' organization, that person may appeal against the refusal or order to the High Court.

Appeals

(2) The High Court may, on an appeal under this section, make such order as it think proper, including any directions as to the costs of the appeal.

(3) The decision of the High Court on appeal under this section shall be final.

(4) The Chief Justice may make rules of court governing appeals under this section, providing for the method of giving evidence and prescribing the time within which such appeals shall be brought, the fees to be paid, the procedure to be followed and the manner of notifying the Registrar of the appeal.

(5) The Registrar shall be entitled to be heard on any appeal under this section.

14. (1) Where the registration of a trade union under this Act is cancelled in terms of section 12, —

Consequences of cancellation of registration

- (a) it shall thereupon cease to enjoy the rights, immunities and privileges of a registered trade union and any liabilities incurred by the trade union may be enforced against it and its assets; and
- (b) its officers and members shall thereupon cease to enjoy the rights, immunities and privileges accorded to the officers and members of a registered trade union.

(2) Where the registration of a trade union, federation of trade unions or employers' organization under this Act is cancelled in terms of section 12, —

- (a) it shall be dissolved and its assets shall be disposed of in accordance with its constitution; and
- (b) any person who takes any part in its management or organization or acts or purports to act on its behalf or as its officer shall be guilty of an offence and liable to a fine of P60 and, in the case of a continuing offence, to a further fine of P20 for every day the offence continues:

Provided that it shall not be an offence under this paragraph for a person to take part in the management or organization of the trade union, federation of trade unions or employers' organization or to act on its behalf or as its officer for the purposes of —

- (i) any proceedings brought by or against the trade union, federation of trade unions or employers' organization; or
- (ii) dissolving the trade union, federation of trade unions or employers' organization and disposing of its assets in accordance with its constitution.

(3) If any trade union, federation of trade unions or employers' organization the registration of which under this Act is cancelled in terms of section 12 is not dissolved within 3 months, or within such longer period as the Registrar may in any particular case allow, immediately following the day on which the order cancelling its registration was served on it in accordance with that section or, in the event of an appeal against that order, the day on which the appeal was dismissed or abandoned, the trade union, federation of trade unions or employers' organization, every officer thereof and every person acting or purporting to act as an officer thereof shall be guilty of an offence and liable to a fine of P100.

Unregistered trade unions, federations of trade unions and employers' organizations prohibited from carrying on business

15. (1) No trade union, federation of trade unions or employers' organization or any officer or member thereof shall perform any act in furtherance of the objects for which it has been formed unless it is duly registered in accordance with this Act:

Provided that this subsection shall not apply in the case of a person taking part in the management or organization of a trade union, federation of trade unions or employers' organization or acting on its behalf or as its officer for the purposes of —

- (i) any proceedings brought by or against the trade union, federation of trade unions or employers' organization; or
- (ii) dissolving the trade union, federation of trade unions or employers' organization and disposing of its assets in accordance with its constitution.

(2) Any trade union, federation of trade unions or employers' organization or officer or member thereof which or who contravenes this section and any person who is knowingly a party to the contravention shall be guilty of an offence and liable to a fine of P60 and, in the case of a continuing offence, to a further fine of P20 for every day the offence continues.

16. Until a trade union is registered in accordance with this Act, —

- (a) it shall not enjoy the rights, immunities and privileges of a registered trade union and any liabilities incurred by the trade union may be enforced against it and its assets; and
- (b) none of its officers or members shall enjoy the rights, immunities and privileges accorded to the officers and members of a registered trade union.

Rights of trade union pending registration

PART IV *Rights and Liabilities of Trade Unions, Federations of Trade Unions and Employers' Organizations*

17. On the registration of a trade union in accordance with this Act, the registered trade union and its officers and members shall enjoy the following rights, immunities and privileges —

Benefits of registration for trade union

- (a) no suit or other legal proceedings shall be maintainable in any civil court against the registered trade union or any officer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the trade union is a party on the grounds only that such act induces some other person to break a contract of employment or that it is in interference with the trade, business or employment of some other person or with the rights of some other person to dispose of his capital or labour as he wills;
- (b) no suit against the registered trade union or any officer or member thereof on behalf of himself and all other members of the trade union in respect of any delictual act alleged to have been committed by or on behalf of the trade union shall be entertained by any court; and
- (c) the objects of the registered trade union shall not, by reason only that they are in restraint of trade, be unlawful so as to render —
 - (i) any member of the trade union liable to criminal prosecution; or
 - (ii) void or voidable any agreement or trust.

18. Every trade union, federation of trade unions or employers' organization shall be liable on any contract, not being a contract that is void or unenforceable at law, entered into by it or by a duly authorized agent on its behalf.

Liability in contract of trade union, federation of trade unions or employers' organization

Proceedings
by or
against
trade
union,
federation
of trade
unions or
employers'
organization

19. (1) A registered trade union, federation of trade unions or employers' organization may sue or be sued under its registered name.

(2) A trade union, federation of trade unions or employers' organization not registered under this Act may sue or be sued under the name by which it has been operating or is generally known.

(3) A trade union, federation of trade unions or employers' organization whose registration under this Act has been cancelled in terms of section 12 may sue or be sued under the name by which it was registered.

(4) Execution for any moneys recovered from a trade union, federation of trade unions or employers' organization in civil proceedings may issue against any property belonging to or held in trust for the trade union, federation or trade unions or employers' organization, other than its provident, welfare or pension fund.

(5) Subject to subsection (6), any fine ordered to be paid by a trade union, federation of trade unions or employers' organization may be recovered by attachment and sale of any property belonging to or held in trust for the trade union, federation of trade unions or employers' organization in accordance with the Criminal Procedure and Evidence Act.

(6) No attachment shall be made of any provident, welfare or pension fund kept apart by a trade union, federation of trade unions or employers' organization unless the court so orders.

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PART V *Membership, Officers, Employees and Trustees*

Membership
of trade
union or
employers'
organization
by children
and young
persons

20. (1) No individual under the age of 15 years shall be a member of a registered trade union or employers' organization.

(2) The constitution of a registered trade union or employers' organization may exclude young persons from membership thereof.

(3) Subject to the constitution of a registered trade union or employers' organization, where a young person is a member thereof, he shall enjoy all the rights of a member.

Provided that a young person shall not be an officer or trustee of the trade union or employers' organization of which he is a member.

(4) A young person shall have the capacity to execute all instruments and give all acquittances necessary to be executed or given under the constitution of the registered trade union or employers' organization of which he is a member.

(5) For the purposes of this section, "young person" means an individual who has attained the age of 15 years but is under the age of 18 years.

21. (1) No person shall be admitted to membership of a trade union unless he is an employee in an industry with which the trade union is directly concerned.

Restrictions
on
membership
of trade
union

(2) Upon a member of a trade union ceasing to be an employee in an industry with which the trade union is directly concerned, he shall immediately cease to be a member of the trade union.

(3) No employee of a trade union shall be admitted to membership of the trade union.

(4) Upon a member of a trade union becoming an employee of the trade union, he shall immediately cease to be a member of the trade union.

22. (1) No person shall become an officer of a trade union or federation of trade unions if —

Officers
of trade
union or
federation
of
trade unions

(a) he is, in either case, an employee of a trade union or federation of trade unions;

(b) he is not a member of the trade union or of a trade union belonging to the federation of trade unions; or

(c) he has been an employee for less than one year in an industry with which the trade union or the trade union belonging to the federation of trade unions of which he is a member is directly concerned.

(2) Upon an officer of a trade union or federation of trade unions —

(a) becoming, in either case, an employee of a trade union or federation of trade unions; or

(b) ceasing to be a member of the trade union or of a trade union belonging to the federation of trade unions,

he shall immediately cease to be an officer of the trade union or federation of trade unions:

Provided that, where he ceases in accordance with section 21 (2) to be a member of the trade union or of a trade union belonging to the federation of trade unions by reason of his ceasing to be an employee in an industry with which that trade union is directly concerned, he shall cease to be an officer of the trade union or federation of trade unions at the expiry of the period of 6 months immediately following the cessation of such membership unless, for whatever reason, he earlier ceases to be an officer of the trade union or federation of trade unions.

(3) Where the Registrar is of the opinion that a treasurer of a registered trade union or federation of trade unions is incapable of carrying out the functions of a treasurer properly, he shall cause a written notice to be served forthwith on the treasurer requiring him to vacate his office as such before the expiry of the period of one month immediately following the day service of the notice is effected on him.

(4) The Registrar shall cause a copy of every notice such as is referred to in subsection (3) to be served on the registered trade union or federation of trade unions in question.

(5) Failing the earlier vacation of his office as such, a treasurer of a registered trade union or federation of trade unions on whom a notice has been served in accordance with subsection (3) shall be deemed to have vacated his office as a treasurer at the expiry of the period of one month prescribed by that subsection.

(6) A treasurer of a registered trade union or federation of trade unions on whom a notice has been served in accordance with subsection (3) shall not permit himself to be appointed a treasurer of either a trade union or a federation of trade unions before the expiry of the period of 12 months immediately following the day on which such service was effected.

(7) No person shall be an officer of a trade union or federation of trade unions who has, within the immediately preceding 5 years, been convicted of an offence under this Act, under the Trade Unions Act repealed by this Act or the principal Act for the time being in force providing for the settlement of trade disputes or involving fraud or dishonesty and finally sentenced in connexion therewith to a term of imprisonment, whether or not the same was ordered in respect of the non-payment of a fine.

(8) Any person who acts or purports to act as the officer of a trade union or federation of trade unions when he is not qualified to be such an officer or who acts or purports to act as a treasurer of a registered trade union or federation of trade unions after the expiry of the period during which he is required by the Registrar to vacate his office as such in accordance with this section or permits himself to be appointed a treasurer of a trade union or federation of trade unions in contravention of subsection (6) shall be guilty of an offence and liable to a fine of P60 and, in the case of a continuing offence, to a further fine of P20 for every day the offence continues.

Notice
of officers
of
registered
trade union,
federation
of trade
unions or
employers'
organization
to be
exhibited

23. (1) Every registered trade union, federation of trade unions or employers' organization shall at all times prominently exhibit at its registered office and at the principal office of every branch thereof a notice clearly setting out the full names of all the officers for the time being of the trade union, federation of trade unions or employers' organization, together with their respective titles.

(2) Any registered trade union, federation of trade unions or employers' organization that fails to comply with this section and every officer thereof who is knowingly a party to the failure shall be guilty of an offence and liable to a fine of P50 and, in the case of a continuing offence, to a further fine of P10 for every day the offence continues.

24. (1) No contract of employment entered into by a trade union or federation of trade unions providing for the full-time engagement of a person as an employee of the trade union or federation of trade unions and no subsequent contract varying such a contract, but leaving untouched the provision for such full-time engagement, shall be enforceable by either party thereto unless, before the contract is concluded, the terms and conditions thereof have been settled by agreement between the parties thereto and the Registrar.

Terms of contract for full-time employment with trade union or federation of trade unions to be agreed between parties and Registrar

(2) Where a contract of employment between a trade union or federation of trade unions and an employee thereof providing for his full-time engagement as such is in force at the commencement of this Act, the contract shall, unless earlier discharged or otherwise determined, cease to be enforceable by either party thereto at the expiry of the period of 2 years immediately following such commencement.

25. (1) The constitution of every registered trade union or federation of trade unions shall provide for the appointment or election and removal of trustees and for the filling of vacancies in the offices of trustees so that, as far as may be, there shall at all times be at least 3 trustees of the trade union or federation of trade unions.

Trustees of registered trade union or federation of trade unions

(2) No officer of a registered trade union or federation of trade unions shall be a trustee of the trade union or federation of trade unions.

(3) No person shall be a trustee of a registered trade union unless he is a member of the trade union and no person shall be a trustee of a registered federation of trade unions unless he is a member of a trade union belonging to the federation of trade unions:

Provided that a bank approved by the Registrar may be a trustee of a registered trade union or federation of trade unions.

(4) No person shall be a trustee of a registered trade union or federation of trade unions if he has at any time been finally convicted of an offence involving dishonesty.

26. (1) All property belonging to a registered trade union or federation of trade unions shall vest in and be under the control of the trustees for the time being of the trade union or federation of trade unions for the use and benefit of the trade union or federation of trade unions and of its members.

Property of registered trade union or federation of trade unions to vest in trustees

(2) In all actions or suits or prosecutions before any court touching or concerning any property belonging to a registered trade union or federation of trade unions, the same shall be stated to be the property of the persons who are the trustees for the time being of the trade union or federation of trade unions in their proper names as such trustees without any further description.

(3) The trustees of a registered trade union shall deal with all property vested in them by virtue of this section in such manner as the executive committee of the trade union shall direct:

Provided that no disposal of any such property shall be made unless the trustees are satisfied that the executive committee has acted lawfully and in accordance with the constitution of the trade union.

(4) The trustees of a registered federation of trade unions shall deal with all property vested in them by virtue of this section in such manner as the body designated by the constitution of the federation of trade unions for this purpose shall direct:

Provided that no disposal of any such property shall be made unless the trustees are satisfied that the directing body has acted lawfully and in accordance with the constitution of the federation of trade unions.

27. No change in the officers or trustees of a registered trade union, federation of trade unions or employers' organization shall have effect unless the change is registered by the Registrar.

PART VI Meetings

28. (1) Every registered trade union shall hold a general meeting, to be called the annual general meeting, in every year ending on 31st December and shall, in the notice calling the meeting, specify the meeting as the annual general meeting of the trade union.

(2) Not more than 15 months shall elapse between the end of one annual general meeting of a registered trade union and the beginning of the next following annual general meeting of the trade union.

(3) If default is made in holding an annual general meeting in accordance with subsections (1) and (2), the Registrar shall call or direct the calling of an annual general meeting and may give such directions in connexion therewith as he thinks expedient especially in relation to the calling, holding and conducting of the meeting and the operation of the trade union and of its constitution.

(4) Directions given by the Registrar under this section shall include a direction that a specified number of the members of the trade union present in person shall constitute the annual general meeting of the trade union for the year in question, notwithstanding the constitution of the trade union:

Provided that, where such a meeting is held in a year other than the year in which default in holding the annual general meeting occurred, the meeting shall constitute the annual general meeting for the year in which it is held.

(5) An annual general meeting held in consequence of the Registrar's intervention in accordance with this section shall not be adjourned for any reason without the consent of the Registrar.

Change of
officers
or trustees
ineffective
unless
registered
Annual
general
meeting
of
registered
trade union

(6) If default is made in holding an annual general meeting in accordance with this section or in complying with any directions given in terms of this section by the Registrar, every officer of the registered trade union in question who is knowingly a party to the default shall be guilty of an offence and liable to a fine of P100.

29. (1) Notwithstanding anything contained in the constitution of a registered trade union, its executive committee shall, on the written requisition of not less than one-tenth of its members for the time being qualified to vote or of the Minister, forthwith proceed duly to convene an extraordinary general meeting of the trade union.

Extraor-
dinary
general
meetings
of
registered
trade union

(2) A requisition such as is referred to in subsection (1) shall clearly set out the objects of the required meeting and shall be signed by the persons making the requisition or by the Minister, as the case may be, and deposited at the registered office of the trade union in question.

(3) If the executive committee of the trade union in question does not, within 21 days immediately following the deposit of a requisition at its registered office in accordance with subsection (2), convene an extraordinary general meeting to be held not later than 40 days immediately after such deposit, any 2 or more of the persons who made the requisition or the Minister, as the case may be, may convene an extraordinary general meeting; but no meeting so convened shall be held later than 3 months immediately after such deposit.

(4) If default is made in holding an extraordinary general meeting in accordance with this section, every officer of the trade union in question who is knowingly a party to the default shall be guilty of an offence and liable to a fine of P50.

30. (1) The representative of the Minister shall be entitled to attend every meeting of the body in which the ultimate authority of a registered federation of trade unions is vested and of the federation's executive committee.

Representa-
tive of
Minister
entitled
to attend
and take
part in
meetings
of
registered
federation
of trade
unions

(2) The representative of the Minister may take part in the proceedings of any meeting such as is referred to in subsection (1); but he shall not vote on any question before the meeting.

31. (1) Every registered trade union and every branch thereof shall cause minutes of all proceedings of general meetings and of meetings of the executive committees of the trade union and its branches to be entered in books kept for that purpose alone and shall retain each such book in safe custody for not less than 5 years immediately after the date of the last entry therein.

Records of
meetings
of
registered
trade union
or
federation
of trade
unions

(2) Subsection (1) shall apply, with all necessary modifications, to a registered federation of trade unions in respect of proceedings of meetings of the body in which the ultimate authority of the federation is vested and of the federation's executive committee.

(3) Every minute such as is contemplated by subsections (1) and (2) shall, if purported to be signed by the person presiding at the meeting at which it was recorded or by the person presiding at the next succeeding meeting of the same body, be *prima facie* evidence of the facts therein recorded.

(4) Where minutes have been recorded in accordance with this section, the meeting in question shall be deemed, unless the contrary is shown, to have been duly held and convened and all proceedings thereof to have been duly taken; and all appointments, elections or dismissals arising therefrom of officers or trustees shall be deemed, unless the contrary is shown, to be valid.

(5) Any registered trade union or branch thereof or any registered federation of trade unions that fails to comply with this section and every officer of the trade union or federation of trade unions who is knowingly a party to the failure shall be guilty of an offence and liable to a fine of P50.

Custody
of
records
of
minutes of
registered
trade union
or
federation
of
trade unions

32. (1) The books containing the minutes of proceedings of —

- (a) general meetings of a registered trade union or meetings of its executive committee; or
- (b) meetings of the body in which the ultimate authority of a registered federation of trade unions is vested or of the federation's executive committee,

shall be kept at the registered office of the trade union or federation of trade unions and shall be open to inspection without charge by any member of the trade union or of a trade union belonging to the federation of trade unions, or by any person authorized in that behalf by the Registrar, for not less than one hour in each working day:

Provided that, where the trade union or federation of trade unions does not exhibit a notice at its registered office specifying the time for such inspection, any person entitled to inspect the books in terms of this section shall be entitled to do so forthwith on application at any time during ordinary office hours in a working day.

(2) Any member of a registered trade union or of a trade union belonging to a registered federation of trade unions shall be entitled to be furnished, not later than 14 days immediately after he has made a request in that behalf to the trade union or federation of trade unions, with a copy of any minutes such as are referred to in subsection (1) at a charge not exceeding 10 thebe for every 100 words.

(3) If any inspection to which a person is entitled in terms of this section is refused or unreasonably delayed or if any copy with

which a person is entitled to be furnished fails to be provided within the prescribed time, every officer of the trade union or federation of trade unions in question who is knowingly a party to the refusal, delay or failure shall be guilty of an offence and liable to a fine of P10.

PART VII *Registered Office and Postal Address*

33. (1) Every registered trade union, federation of trade unions or employers' organization shall have a registered office, which shall be its principal office, and a registered postal address at or to which all communications and notices may be delivered or addressed.

Registered office and postal address of registered trade union, federation of trade unions or employers' organization

(2) Notice in writing of any change in the location of the principal office of a registered trade union, federation of trade unions or employers' organization or in its postal address shall forthwith be given by the trade union, federation of trade unions or employers' organization to the Registrar who shall register the same in place of the existing particulars.

(3) Any registered trade union, federation of trade unions or employers' organization that fails to comply with subsection (2) and every officer thereof who is knowingly a party to the failure shall be guilty of an offence and liable to a fine of P50.

PART VIII *Constitution and Notification of Certain Matters*

34. (1) Subject to the other provisions of this section and to its constitution, a registered trade union, federation of trade unions or employers' organization may amend its constitution, including its name or objects:

Constitution of registered trade union, federation of trade unions or employers' organization

Provided that no change of its name or objects shall be valid unless notice in writing containing particulars of the proposed change has first been given to the Registrar and he has signified in writing that he has no objection to the proposed change.

(2) The constitution of a registered trade union, federation of trade unions or employers' organization shall comply with the First Schedule and shall not be amended or left unamended so as to cease so to comply.

(3) The Minister may, by order published in the Gazette, amend the First Schedule.

(4) A copy of every amendment made to the constitution of a registered trade union, federation of trade unions or employers' organization, signed by at least two-thirds of the members of its executive committee, shall be sent by the trade union, federation of trade unions or employers' organization to the Registrar within 30 days immediately after the making thereof and the Registrar shall register the same, upon payment of the prescribed fee, if he is satisfied that such amendment has been validly made and is not unlawful or inconsistent with this Act, with any

regulations made thereunder or with the other provisions of the constitution.

(5) Every amendment to the constitution of a registered trade union, federation of trade unions or employers' organization shall take effect from the date of registration thereof by the Registrar unless some later date is specified by the constitution or by the amendment itself.

(6) Any registered trade union, federation of trade unions or employers' organization that fails to comply with this section and every officer thereof who is knowingly a party to the failure shall be guilty of an offence and liable to a fine of P50 and, in the case of a continuing offence, to a further fine of P10 for every day the offence continues; and the court before which the prosecution is brought may order a copy of the amendment in question to be sent by the trade union, federation of trade unions or employers' organization to the Registrar within such time as shall be specified in the order.

Effect of change of name of registered trade union, federation of trade unions or employers' organization

35. A change in the name of a registered trade union, federation of trade unions or employers' organization shall not affect any right or obligation of the trade union, federation of trade unions or employers' organization or render defective any legal proceeding by or against the trade union, federation of trade unions or employers' organization or any legal proceeding that might have been continued or commenced by or against it under its new name.

Delivery of copies of constitution of registered trade union, federation of trade unions or employers' organization to members or potential members

36. (1) A registered trade union or employers' organization shall forthwith deliver a copy of its constitution to any person requiring the same who is or appears to be qualified to be a member thereof on payment of a charge not exceeding 50 thebe.

(2) Subsection (1) shall apply, with all necessary modifications, to a federation of trade unions in respect of a requirement made by an officer of a trade union that belongs or appears to be qualified to belong to the federation of trade unions.

(3) Any registered trade union, federation of trade unions or employers' organization that fails to comply with this section and every officer thereof who is knowingly a party to the failure shall be guilty of an offence and liable to a fine of P50 and, in the case of a continuing offence, to a further fine of P10 for every day the offence continues; and the court before which the prosecution is brought may order a copy of the constitution to be delivered forthwith by the trade union, federation of trade unions or employers' organization to the person who required the same.

Certain matters to be notified to Registrar

37. (1) Notice in writing of any change in the officers or trustees of a registered trade union, federation of trade unions or employers' organization shall, within 30 days immediately after the change, be given by the trade union, federation of trade unions or employers' organization to the Registrar, together with the

prescribed fee, and the Registrar shall, subject to subsections (4) and (5), register the change accordingly.

(2) A registered trade union shall give notice to the Registrar setting out —

- (a) the name of every employer or industry that the trade union claims, subsequent to its application for registration under this Act, is bound to deal with it in terms of section 50 (1);
- (b) the name and postal address of every one of its branches with which the trade union claims an employer or industry is bound to deal in terms of section 50 (2); and
- (c) any change relating to its negotiating powers or those of any of its branches,

within 30 days immediately after first making the claim or after the change in question, and the Registrar shall, subject to subsections (4) and (5), register the information or the change accordingly.

(3) Any registered trade union, federation of trade unions or employers' organization that fails to comply with this section and every officer thereof who is knowingly a party to the failure shall be guilty of an offence and liable to a fine of P50 and, in the case of a continuing offence, to a further fine of P10 for every day the offence continues.

(4) Before registering any change of officers or trustees or any other change and before registering any new information or making any correction or alteration to a register, the Registrar may require the production of such evidence as he thinks necessary to satisfy him of the validity of the change, the accuracy thereof or of any new information or the propriety of the proposed correction or alteration.

(5) If, after such inquiry as he thinks necessary, the Registrar is not satisfied of the validity of the change of officers or trustees or other change, the accuracy thereof or of any new information or the propriety of the proposed correction or alteration to a register, he may refer the matter to a tribunal consisting of one or more independent persons appointed by the Minister and the tribunal shall inquire into the matter and make its findings thereon known to the Registrar who shall thereupon act in accordance with those findings.

38. When a registered trade union, federation of trade unions or employers' organization is dissolved, notice containing such particulars as may be prescribed of the dissolution, signed, —

- (a) in the case of a trade union or employers' organization, by 7 members thereof and the principal secretary of the trade union or employers' organization; or
- (b) in the case of a federation of trade unions, by the principal secretary of each of the trade unions belonging to the federation of trade unions and the principal secretary of the federation,

Notification
to Registrar
of dissolution
of registered
trade union,
federation
of trade
unions or
employers'
organization

shall, within 14 days immediately after the dissolution, be sent to the Registrar and the Registrar shall register the same if he is satisfied that the dissolution has been effected in accordance with the constitution of the trade union, federation of trade unions or employers' organization; and the dissolution shall have effect from the date of registration thereof.

PART IX *Finance*

Application
of funds of
registered
trade union,
federation
of trade
unions or
employers'
organization

39. (1) No funds of a registered trade union, federation of trade unions or employers' organization shall be expended otherwise than as provided by this section:

Provided that the constitution of a registered trade union, federation of trade unions or employers' organization may further restrict the purposes for which the funds of the trade union, federation of trade unions or employers' organization may be expended.

(2) The funds of a registered trade union, federation of trade unions or employers' organization may be expended in order to —

- (a) pay the salaries of its employees and the allowances and expenses of its employees and officers;
- (b) meet the expenses of its administration, including the audit of the account of its funds;
- (c) meet the expenses of organizing educational courses and producing and distributing educational material;
- (d) award scholarships and make other educational grants;
- (e) meet the expenses of producing and distributing an official journal;
- (f) pay subscriptions and fees to any body, within or outside Botswana, of or to which it is lawfully a member or otherwise affiliated, including, in the case of a registered trade union, a registered federation of trade unions;
- (g) invest in funds and securities and make loans in a manner and to the extent prescribed by its constitution;
- (h) defend any criminal proceedings brought against it or against any officer or member thereof under this Act or any Act providing for the settlement of trade disputes; and
- (i) pursue any other object that the Minister has, on application made to him by a registered trade union, federation of trade unions or employers' organization, by order published in the Gazette, declared to be an object for which such funds may be expended, subject to such conditions as the Minister may, by the same or a subsequent order, specify.

(2) The funds of a registered trade union or employers' organization may be expended in order to —

- (a) prosecute or defend any legal proceedings to which it or any member thereof is a party when such prosecution or defence

is undertaken for the purpose of securing or protecting any rights arising out of the relations of any member thereof with his employer or with an employee of the member;

- (b) conduct any trade dispute, by means other than unlawful industrial action, on its own behalf or on behalf of any member thereof; and
- (c) compensate its members for loss arising out of a trade dispute, otherwise than from unlawful industrial action undertaken by those members.

(3) The funds of a registered trade union may be expended in order to pay allowances to members thereof or their dependants on account of death, old age, sickness, accidents or unemployment suffered by such members.

(4) The funds of a registered federation of trade unions may be expended in order to prosecute or defend any legal proceedings to which it or any trade union belonging to it is a party when such prosecution or defence is undertaken for the purpose of securing or protecting any rights arising out of the relations of any member of a trade union belonging to the federation with his employer.

40. The funds of a registered trade union, federation of trade unions or employers' organization shall not be applied, either directly or indirectly, in payment of the whole or any part of any fine or other penalty imposed upon any person by sentence or order of a court, other than a fine or other penalty imposed upon the trade union, federation of trade unions or employers' organization itself.

Prohibition of payment of certain fines and other penalties by registered trade union, federation of trade unions or employers' organization

41. An interdict restraining any unauthorized or unlawful expenditure of the funds or use of any property of a registered trade union, federation of trade unions or employers' organization may be granted on the application of 5 or more persons having sufficient interest in the relief sought or of the Registrar or Attorney-General.

Interdict to restrain unauthorized or unlawful expenditure of funds etc. of registered trade union, federation of trade unions or employers' organization

42. (1) Every registered trade union, federation of trade unions or employers' organization shall cause to be kept such proper books of account as are necessary to give a true and fair view of its financial position and more particularly with respect to —

Books of account of registered trade union, federation of trade unions or employers' organization

- (a) all sums of money received or expended by it and the matters in respect of which such receipt or expenditure takes place; and

(b) its assets and liabilities.

(2) The books of account required to be kept by subsection (1) shall be kept by the trade union, federation of trade unions or employers' organization at its registered office or at such other place in Botswana as its executive committee thinks fit and shall be open at all reasonable times to inspection by members of the executive committee.

(3) Any officer of a registered trade union, federation of trade unions or employers' organization who fails to take every reasonable step open to him to secure compliance by the trade union, federation of trade unions or employers' organization with this section or has, by his own wilful act, been the cause of any failure by the trade union, federation of trade unions or employers' organization to comply with this section shall be guilty of an offence and liable to a fine of P200 and to imprisonment for 12 months:

Provided that no person shall be sentenced to imprisonment under this section unless the court is satisfied that the offence was committed wilfully.

Circulation,
furnishing and
auditing of
accounts
of registered
trade union,
federation of
trade unions
or employers'
organization

43. (1) The principal treasurer of a registered trade union or employers' organization shall, not later than 18 months immediately after its registration under this Act and subsequently in every financial year, prepare, prominently exhibit at the registered office of the trade union or employers' organization and send to every branch thereof for similar exhibition at the branch's principal office, a balance sheet in such form as the Minister may require giving a true and fair view of the state of the financial affairs of the trade union or employers' organization at the end of the immediately preceding financial year.

(2) Subsection (1) shall apply, with all necessary modifications, to the principal treasurer of a registered federation of trade unions.

(3) Every treasurer of a registered trade union or employers' organization and every other officer thereof who is responsible for its accounts or for the collection, disbursement, custody or control of any of its funds or moneys shall, upon resigning or otherwise vacating his office or at any other time when required to do so by the Registrar or by a resolution passed by a general meeting of the trade union or employers' organization, furnish the members of the trade union or employers' organization and the Registrar or, where a requirement is made by the Registrar, the Registrar alone with a just and true account of all moneys received or disbursed by him during the period that has elapsed since the date of his last assuming office as a treasurer or such other period as the Registrar or the general meeting, as the case may be, may specify.

(4) A treasurer or other officer furnishing an account such as is referred to in subsection (3), shall include therein the balance of any moneys remaining in his hands and of all bonds, securities and other property of the trade union or employers' organization entrusted to his hands or custody or otherwise under his control.

(5) Subsections (3) and (4) shall apply, with all necessary modifications, to every treasurer and every other officer such as is therein referred to of a registered federation of trade unions as if the references therein to a general meeting were references to a meeting of the body in which the ultimate authority of the federation is vested.

(6) Every balance sheet prepared in accordance with subsection (1) and every account such as is referred to in subsection (3) shall be audited at the expense of the registered trade union, federation of trade unions or employers' organization by an auditor approved by the Minister and, for these purposes, the auditor shall have and be given free access to all books and other documents relating to the accounts of the trade union, federation of trade unions or employers' organization.

(7) After the auditing of an account such as is referred to in subsection (3), the treasurer or other officer concerned of a trade union, federation of trade unions or employers' organization shall forthwith hand over to the trustees of the trade union, federation of trade unions or employers' organization such balance as is due from him of all bonds, securities, effects, books, papers and other property of the trade union, federation of trade unions or employers' organization in his hands or custody or otherwise under his control:

Provided that, in the case of a registered employers' organization that has no trustees in whom all its property is vested, the items specified by this section shall be handed over to the executive committee of the employers' organization.

(8) Any person who obstructs or in any other manner whatsoever hinders an auditor in carrying out his functions in terms of subsection (6) and any person who fails to comply with this section shall be guilty of an offence and liable to a fine of P100 and to imprisonment for 6 months.

44. (1) Every registered trade union, federation of trade unions or employers' organization shall furnish the Registrar, on or before the prescribed date in every financial year, with a copy of the balance sheet prepared and audited in accordance with section 43, together with a copy of the auditor's report thereon.

Annual return
of registered
trade union,
federation of
trade unions
or employer's
organization

(2) Together with a copy of the balance sheet with which the Registrar is furnished in accordance with subsection (1), a registered trade union, federation of trade unions or employers' organization shall furnish the Registrar with —

- (a) a copy of its constitution in force at the end of the immediately preceding financial year;
- (b) a copy of all amendments to its constitution and a written statement setting out all changes in its officers and trustees made during the immediately preceding financial year; and
- (c) a written statement setting out, in the case of a —
 - (i) registered trade union, the number of its members;
 - ii) registered federation of trade unions, the name and registered postal address of each of the trade unions belonging to the federation; or
 - (iii) registered employers' organization, the name and postal address of each of its members,
 at the end of the immediately preceding financial year.

(3) Any registered trade union, federation of trade unions or employers' organization that fails to comply with subsection (1) or (2) and every officer thereof who is knowingly a party to the failure shall be guilty of an offence and liable to a fine of P200.

(4) Any person who makes or causes to be made any entry in a document, with which the Registrar is required to be furnished in accordance with this section, that he knows to be false or does not believe to be true or omits or causes to be omitted from any such document any fact which he knows or suspects to be a material fact shall be guilty of an offence and liable to imprisonment for 3 years.

Inspection of accounts and list of members of registered trade union, federation of trade unions or employers' organization

45. (1) The books of account of a registered trade union, federation of trade unions or employers' organization, together with its list of current members, shall be open to inspection by any officer or member of the trade union or employers' organization or of a trade union belonging to the federation of trade unions, at such times as shall be provided by its constitution, or by the Registrar or by any person authorized in that behalf by the Registrar, at any reasonable time.

(2) If any inspection to which a person is entitled in terms of subsection (1) is refused or unreasonably delayed, every officer of the trade union, federation of trade unions or employers' organization who is knowingly a party to the refusal or delay shall be guilty of an offence and liable to a fine of P100 and to imprisonment for 6 months.

Interdict against officers of registered trade union, federation of trade unions or employers' organization

46. (1) A member of a registered trade union or employers' organization or of a trade union belonging to a registered federation of trade unions or the Registrar may apply to the High Court for an interdict prohibiting an officer of the trade union, federation of trade unions or employers' organization from holding office in or controlling the funds of the trade union, federation of trade unions or employers' organization.

(2) Where, on an application under this section, the High Court is satisfied that there is a *prima facie* case against the officer

in question for fraudulent misuse of the funds of the trade union, federation of trade unions or employers' organization or that the officer is disqualified from holding office in the trade union, federation of trade unions or employers' organization, whether by virtue of this Act or otherwise, the High Court may grant the interdict for which application is made.

PART X *Amalgamations and Federations of Registered Trade Unions*

47. (1) Subject to the other provisions of this section, any 2 or more registered trade unions may, with the prior consent in writing of the Minister and in accordance with their respective constitutions, amalgamate together as one trade union, with or without dissolution of their funds, or form a federation of trade unions.

Amalgamation or federation of registered trade unions

(2) Where the Minister grants his consent for the purposes of this section, he may attach thereto such conditions as he thinks fit, whether in relation to this Act or otherwise.

(3) Where the Minister refuses to grant his consent for the purposes of this section or grants such consent but attaches conditions thereto, his decision shall be final and shall not be challenged in any court.

(4) No registered trade unions shall amalgamate together as one trade union or form a federation of trade unions unless a general meeting of each of the trade unions resolves, by secret ballot conducted in the prescribed manner, that the trade union be authorized to do so and the resolution receives the affirmative votes of at least —

- (a) two-thirds of the members of the trade union for the time being qualified to vote; and
- (b) half of the members of the trade union for the time being qualified to vote who are less than 3 consecutive months in arrears in payment of their dues to the trade union as required by its constitution.

(5) If any question arises whether, for the purposes of this section, a member of the trade union is or is not for the time being qualified to vote or is or is not less than 3 consecutive months in arrears in payment of his dues to the trade union as required by its constitution, the question shall be determined by the executive committee of the trade union.

48. (1) Every amalgamation of registered trade unions shall be registered in accordance with this Act.

Registration of amalgamation of registered trade unions

(2) Notwithstanding section 47, no resolutions of general meetings of registered trade unions authorizing the trade unions to amalgamate together as one trade union shall be acted upon unless the proposed amalgamation has been registered under this Act.

(3) Except as provided by this section, the provisions of this Act in respect of the registration of a trade union shall apply to an amalgamation or proposed amalgamation of registered trade unions.

(4) Following resolutions such as are referred to in subsection (2), an application shall forthwith be made to the Registrar for registration of the proposed amalgamation under this Act.

(5) Every application such as is referred to in subsection (4) shall be —

- (a) in writing containing such particulars as may be prescribed;
- (b) signed by the principal secretary and 10 members of each of the registered trade unions proposing to amalgamate; and
- (c) accompanied by one copy of each of the resolutions by which the registered trade unions in question were authorized to amalgamate authenticated under the hand of the principal secretary of the trade union in question.

(6) If the Registrar is satisfied that section 47 has been complied with and that the proposed amalgamation of registered trade unions is entitled to registration under this Act, he shall register the proposed amalgamation in such manner as the Minister may direct and the amalgamation thereafter formed in conformity therewith shall be deemed to be registered as a trade union in accordance with this Act and to have effect from the date of such registration.

(7) Where any person is aggrieved by the refusal of the Registrar to register a proposed amalgamation of registered trade unions, that person may appeal against the refusal to the High Court and section 13 shall apply, with all necessary modifications, to the appeal.

49. An amalgamation of 2 or more registered trade unions shall not prejudice any right of either or any of the trade unions or any right of a creditor of either or any of them.

Amalgama-
tion of
registered
trade unions
not to
prejudice
rights

PART XI *Recognition of Registered Trade Unions as Negotiating Bodies*

Recognition
of registered
trade union
as negotiating
body

50. (1) Where at least one-quarter of the employees of an employer or in an industry who are or appear to be qualified to be members of a particular registered trade union are in fact members of that trade union, the employer or industry shall be bound to deal with the trade union as the negotiating body in respect of all matters bearing upon relations between the employer or industry and those employees thereof or therein who are members of the trade union.

(2) Where a registered trade union with which an employer or industry is bound to deal in terms of subsection (1) has a branch to which belong at least one-quarter of the employees of the employer or industry who are or appear to be qualified to belong

to that branch, the employer or industry shall, if the trade union so desires, be bound to deal with the branch as the negotiating body for the trade union in respect of all matters bearing upon relations between the employer or industry and those employees thereof or therein who belong to the branch.

(3) If any question arises whether an employer or industry is or is not bound to deal with a particular registered trade union or branch thereof in terms of subsection (1) or (2), the employer or industry or the trade union concerned may, in writing lodged with the Registrar, require the Registrar to determine the question.

(4) The Registrar shall, within 30 days immediately after a requirement is lodged with him under subsection (3) and after making such inquiries as he thinks necessary, determine the material question and issue his certificate to the effect that the employer or industry concerned is bound or is not bound, as the case may be, to deal with the trade union or branch thereof concerned in terms of subsection (1) or (2).

(5) Every certificate issued in accordance with subsection (4) shall be issued in counterpart to the employer or industry and to the trade union concerned and a copy thereof shall be delivered to the Commissioner of Labour.

(6) The Registrar's certificate issued in accordance with subsection (4) shall, for the purposes of legal proceedings, be conclusive as to the matter therein certified and shall remain valid for those purposes until such time as the material question is again determined by the Registrar in terms of this section and a fresh certificate issued in accordance with subsection (4).

(7) Where an employer or industry fails to deal in terms of subsection (1) or (2) with a registered trade union or branch thereof with which he or it is bound to deal in terms of this section, every person who is knowingly a party to the failure shall be guilty of an offence and liable to a fine of P500.

PART XII *Minister's Commissioner*

51. (1) Where there are, in the opinion of the Minister, reasonable grounds to believe that the affairs of a registered trade union or federation of trade unions are being conducted, either wholly or in part, —

- (a) without regard to the principles of sound financial management;
- (b) in a manner oppressive to one or more members of the trade union or federation of trade unions or disregarding or prejudicial to the proper interests of one or more such members as a member or members of the trade union or federation of trade unions; or

Power of
Minister to
appoint by
order
Minister's
Commissioner
to assume
management
of registered
trade union
or federation
of trade
unions

(c) otherwise than in conformity with this Act, with any regulations made thereunder or with the constitution of the trade union or federation of trade unions,

the Minister may, by order published in the Gazette, with effect from such date as shall be specified in the order, declare every office in the trade union or federation of trade unions vacant and its executive committee and other organs dissolved and vest the functions attached to those offices and the functions of its executive committee and other organs in a public officer (hereinafter referred to as "the Minister's Commissioner") who shall, subject to subsection (2), thereafter carry out those functions until such time as the order is revoked.

(2) The Minister may appoint other public officers to assist the Minister's Commissioner in carrying out the functions vested in him and the Minister's Commissioner may delegate to any of those officers the carrying out on his behalf of such of those functions as he thinks fit, subject to such conditions, exceptions or qualifications as the Minister's Commissioner may direct.

(3) The Minister's Commissioner shall, as soon as may be, submit a written report to the Minister on the affairs of the trade union or federation of trade unions in question and a copy thereof to the Registrar.

(4) Every person who is or has at any time been concerned with the conduct of the affairs of the trade union or federation of trade unions in question shall produce to the Minister's Commissioner all books and other documents of or relating to the trade union or federation of trade unions in his hands or custody or otherwise under his control and otherwise give the Minister's Commissioner all assistance he is reasonably able to give to enable the Minister's Commissioner to obtain a true view of the affairs of the trade union or federation of trade unions.

(5) For the purpose of obtaining a true view of the affairs of the trade union or federation of trade unions in question, the Minister's Commissioner may examine on oath any person who is or has at any time been concerned with the conduct of its affairs and administer an oath accordingly.

(6) Every person who was an officer of the trade union or federation of trade unions in question immediately before the date specified in the material order made under subsection (1) and every member or employee of the trade union or federation of trade unions shall give the Minister's Commissioner and every person appointed under subsection (2) to assist the Minister's Commissioner all assistance he is reasonably able to give to enable the Minister's Commissioner or that other person to carry out the functions vested in him by virtue of the Minister's order or the carrying out of which has been delegated to him under subsection (2).

(7) Any person who fails to comply with this section shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

(8) Without prejudice to subsection (7), any person, other than the Minister's Commissioner or a person appointed under subsection (2), who purports, after the date specified in the material order made under subsection (1), to carry out a function vested in the Minister's Commissioner by virtue of that order shall be guilty of an offence and liable to a fine of P60 and, in the case of a continuing offence, to a further fine of P20 for every day the offence continues.

52. (1) On receipt of the report of the Minister's Commissioner submitted to him in accordance with section 51, the Minister shall, unless in his opinion it is undesirable in the public interest to do so, —

Report of
Minister's
Commissioner

- (a) direct the Minister's Commissioner to place a copy of the report with the records of the trade union or federation of trade unions in question at its registered office;
 - (b) direct the Minister's Commissioner to use his best endeavours to cause all the members of the trade union or the members of the trade unions belonging to the federation of trade unions to be informed that a copy of the report is available, on request and on payment of a charge, to every such member; and
 - (c) forward a copy of the report, on request and on payment of such reasonable charge as the Minister shall determine, to any such member;
- and the Minister may also cause the report to be published in the Gazette.

(2) If, on reading the report submitted to him in accordance with section 51, it appears to the Minister that —

- (a) any person may have committed an offence, the Minister shall refer the matter to the Attorney-General;
- (b) the registration under this Act of the trade union or federation of trade unions in question ought to be cancelled, the Minister may direct the Registrar to cancel its registration; or
- (c) any person is unfit to be an officer of a trade union or federation of trade unions, the Minister may, by notice published in the Gazette, declare that person unqualified to be an officer of either a trade union or a federation of trade unions until such time as the Minister has confirmed in writing his opinion that the person is no longer unfit to be an officer of a trade union or federation of trade unions.

Revocation
of order
of Minister
appointing
Minister's
Commissioner

53. (1) Where the Minister wishes to revoke an order made under section 51, he shall so inform the Minister's Commissioner in writing who shall on receipt thereof forthwith proceed to make the necessary arrangements for the offices of the trade union or federation of trade unions in question to be filled afresh and its executive committee and other organs to be reconstituted in accordance with the constitution of the trade union or federation of trade unions.

(2) As soon as an office of the trade union or federation or trade unions in question is filled afresh or its executive committee or some other organ thereof reconstituted, in consequence of the arrangements made by the Minister's Commissioner in accordance with subsection (1), the new officer or the new executive committee or other organ shall, notwithstanding section 51, assume the functions attached to the office or belonging to the executive committee or other organ, as the case may be, to the exclusion of the Minister's Commissioner and any person appointed under section 51 (2).

(3) As soon as the Minister is informed in writing by the Minister's Commissioner that sufficient offices and organs of the trade union or federation of trade unions in question have, in the opinion of the Minister's Commissioner, been filled afresh or reconstituted, in consequence of arrangements made by the Minister's Commissioner in accordance with subsection (1), as ought to ensure the proper conduct of the affairs of the trade union or federation of trade unions, the Minister shall revoke the material order made under section 51.

PART XIII *Picketing, Intimidation, Disputes etc.*

Peaceful
picketing
and
prevention
of
intimidation

54. (1) Notwithstanding anything contained in this Act or any other law, —

- (a) it shall be lawful for one or more persons, acting on their own or on behalf of a registered trade union or employers' organization or of an individual employer or a 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 or inducing any person to work or to abstain from working; and
- (b) it shall not be lawful for one or more persons, whether acting on their own behalf or on behalf of a registered trade union or employers' organization or of an individual employer or a firm, and notwithstanding that they may be acting in contemplation or furtherance of a trade dispute, to attend at or near a house or place where a person resides or works or carries on business or happens to be for the purpose of

obtaining or communicating information or of persuading or inducing any person to work or to abstain from working, if they so attend in such numbers or otherwise in such manner as to be likely —

- (i) to intimidate any person in that house or place or to obstruct the approach thereto or the egress therefrom; or
- (ii) to lead to a breach of the peace.

(2) Any person who acts in a way declared unlawful by subsection (1) (b) shall be guilty of an offence and liable to a fine of P100 and to imprisonment for 6 months.

55. Any person who, with a view to compelling any other person to abstain from doing or to do any act which that other person has a legal right to do or to abstain from doing, wrongfully and without legal authority —

Intimidation
and
annoyance

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

shall be guilty of an offence and liable to a fine of P100 and to imprisonment for 6 months.

56. (1) Any agreement or combination by 2 or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be punishable as a conspiracy if such act committed by one person would not be punishable as a crime.

Conspiracy in
trade disputes

(2) An act done in pursuance of an agreement or combination by 2 or more persons shall, if done in contemplation or furtherance of a trade dispute, not be actionable unless the act, if done without 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 enactment.

(4) Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace or sedition or any offence against the President or in contravention of Part II, Division I, of the Penal Code.

Cap. 08:01

(5) For the purposes of this section, a crime means an offence the commission of which renders the offender liable to be imprisoned either absolutely or at the discretion of the court as an alternative to some other punishment.

Freedom of
association
of employees

57. (1) No employer shall make it a condition of employment of any employee that the employee shall not be or become a member of any registered trade union or other organization representing employees in any industry or of a particular registered trade union or other such organization or participate in the activities of a registered trade union or other such organization.

(2) Notwithstanding anything to the contrary in any enactment, no employer shall prohibit an employee from being or becoming a member of any registered trade union or other organization such as is referred to in subsection (1), or of a particular registered trade union or other such organization or subject him to any penalty by reason of his membership or participation in the activities of a registered trade union or other such organization.

(3) Any employer who contravenes this section and any other person who is knowingly a party to the contravention shall be guilty of an offence and liable to a fine of P200 and to imprisonment for 12 months.

PART XIV *Offences and Penalties*

Penalty for
misuse of
money or
other
property of
registered
trade union,
federation
of
trade unions
or employers'
organization

58 (1) Where, on complaint made by a member of a registered trade union or employers' organization or by an officer or member of a trade union belonging to a registered federation of trade unions or by the Registrar, it is shown to the satisfaction of a court of a Magistrate Grade I or over that any person —

- (a) has in his possession or control any property of the trade union, federation of trade unions or employers' organization otherwise than in accordance with its constitution; or
- (b) has unlawfully expended or withheld any money of the trade union, federation of trade unions or employers' organization,

the court may, if it considers that the justice of the case so requires, order that person to deliver all such property or pay the money so unlawfully expended or withheld to the trustees of the trade union or federation of trade unions or of the employers' organization, if such exist, or, if such do not exist, to the executive committee of the employers' organization.

(2) A complaint under subsection (1), not being a complaint made by the Registrar, shall not be entertained unless the court is satisfied that the complainant is or was, on the date of the complaint, a member of the trade union or employers' organization or an officer or member of a trade union that belongs or belonged, on that date, to the federation of trade unions, in respect of whose money or other property the complaint is made.

(3) Any person to whom an order under subsection (1) is addressed who fails to comply therewith, within such time as

shall be specified therein, shall be guilty of an offence and liable to a fine of P100.

59. Any person who makes or causes to be made any entry in a document required by or for the purposes of this Act that he knows to be false or does not believe to be true in a material particular or omits or causes to be omitted from any such document any fact which he knows or suspects to be a material fact shall be guilty of an offence and liable, unless some other punishment is prescribed therefor, to a fine of P1 000 and to imprisonment for 2 years.

Penalty for false entries in documents

60. No prosecution shall be instituted for an offence under section 54 or 55 or for an offence of attempting or conspiring with another person to commit such an offence unless the prosecution is instituted by or at the instance of or with the consent in writing of the Attorney-General:

Limitation of prosecutions

Provided that a person may be arrested for and charged with any such offence and remanded in custody or on bail notwithstanding that the consent of the Attorney-General to the institution of a prosecution for the offence has not been obtained; but no further or other proceedings shall be taken unless that consent has been obtained.

PART XV *Miscellaneous*

61. (1) Notwithstanding any other provision of this Act, no member of management in any undertaking or enterprise shall be represented by a negotiating body, whether the same is or is not a registered trade union or branch thereof, in respect of matters bearing upon relations between his employer or the industry in which the member of management is employed and those employees thereof or therein who are members of management unless the negotiating body represents only members of management in the same undertaking, enterprise or industry and no other employees.

Restriction on membership of negotiating bodies by members of management

(2) In this section, "member of management" means an employee who —

- (a) has authority, on behalf of his employer, to employ, transfer, suspend, lay off, recall, promote, terminate the employment of, reward, discipline or deal with the grievances relating to their employment of any fellow employees or effectively to recommend any such action or the manner in which such grievances ought to be dealt with, if the exercise by him of that authority is not merely of a routine or clerical nature but requires the use of his discretion;
- (b) participates in the making of a general policy regarding relations between his employer and his fellow employees or any of them; or

(c) is employed in a capacity that requires him to have full knowledge of the financial position of the undertaking or enterprise in which he is employed or gives him free personal access to other confidential information relating to the conduct of his employer's business.

Inspection of records in custody of Registrar

62. All registers, books and other documents in the custody of the Registrar by virtue of this Act shall be open for inspection by members of the public during such hours, on payment of such fees and subject to such conditions as may be prescribed.

Restriction of affiliation by registered trade union, federation of trade unions or employers' organization

63. No registered trade union, federation of trade unions or employers' organization shall, without the consent in writing of the Minister, be a member of or otherwise affiliated to any body outside Botswana.

Restriction on receipt of funds by registered trade union, federation of trade unions or employers' organization

64. (1) No registered trade union, federation of trade unions or employers' organization shall, without the consent in writing of the Minister, accept any funds originating from outside Botswana.

(2) In this section, "funds" includes all donations, loans or other assistance (including assistance in kind, air or sea passages, vouchers or scholarships) having pecuniary value.

Service of legal process on registered trade union, federation of trade unions or employers' organization

65. Every summons, notice or other document required to be served on a registered trade union, federation of trade unions or employers' organization in any civil or criminal proceedings shall be deemed, for the purposes of those proceedings, to be duly served if it is delivered at its registered office or posted to its registered postal address or served personally on its president, principal secretary or treasurer or any other of its officers, in so far as that service is otherwise in compliance with the requirements of any other law relating to the service of documents.

Certain facts to be notified in Gazette

66. The Registrar shall, by notice published in the Gazette, notify —

- (a) every registration of a trade union, federation of trade unions or employers' organization under this Act or refusal of such registration;
- (b) every cancellation of the registration of a trade union, federation of trade unions or employers' organization registered under this Act;
- (c) every registration of a change of name by a registered trade union, federation of trade unions or employers' organization;
- (d) every registration of a proposed amalgamation of registered trade unions under this Act or refusal of such registration; and
- (e) every dissolution of a registered trade union, federation of trade unions or employers' organization.

67. (1) The Minister may, by notice published in the Gazette, require —

Power of
Minister to
require
certain
information

- (a) any trade union or employers' organization or the officials thereof;
- (b) any federation or other association or organization of or to which trade unions or employers' organizations are members or otherwise affiliated or any body of or to which any such federation or other association or organization is itself a member or otherwise affiliated or the officials thereof;
- (c) the representatives of any class of workers or any industry; or
- (d) any person or body of persons who or which represents more than one registered trade union or represents any trade or workers' movement or is concerned with and devoted to trade unionism, labour relations or other such matters,

to notify his, their or its existence in writing lodged with the Registrar.

(2) Any person or body of persons of whom or which a requirement is made under subsection (1) shall forthwith comply therewith and any person or body of persons who or which fails knowingly to do so and any other person who is knowingly a party to the failure shall be guilty of an offence and liable to a fine of P100 and to imprisonment for 3 months; and where, in any proceedings for an offence under this subsection, it is proved that a person or body of persons failed to comply with such a requirement, the court shall presume he or it failed knowingly to do so unless the contrary is proved.

(3) The Minister may, by notice in writing served on any person or body of persons such as is referred to in subsection (1), require him or it to provide the Minister, within such reasonable time as shall be specified in the notice, with such particulars as appear to the Minister necessary to have for the purpose of ascertaining whether this Act (including any regulations made thereunder) is or is not being or has or has not been complied with.

(4) Any person or body of persons on whom or which a notice has been served under subsection (3) who or which fails, without reasonable excuse, to comply therewith or, in compliance or purported compliance therewith, provides particulars that he or it knows to be false or does not believe to be true or omits particulars that he or it knows or suspects to be material particulars and any other person who is knowingly a party to the failure, provision or omission shall be guilty of an offence and liable to a fine of P100 and to imprisonment for 3 months; and where, in any proceedings for an offence under this subsection, it is proved that a person or body of persons failed to comply with such a notice, the court shall presume that the failure was without reasonable excuse unless the contrary is proved.

Power of
Minister
to make
regulations

68. The Minister may make regulations for the better carrying into effect of the purposes and provisions of this Act and, without prejudice to the generality of the foregoing, such regulations may

- (a) prescribe the fees payable in connexion with registration under this Act;
- (b) prescribe the hours during which and the conditions subject to which documents in the custody of the Registrar shall be open to inspection by members of the public and the fees to be paid in respect thereof;
- (c) provide for the due disposal and safe custody of the funds and other moneys of registered trade unions, federations of trade unions and employers' organizations;
- (d) provide for the creation, administration, protection, control and disposal of the provident, welfare or pension funds of trade unions, federations of trade unions and employers' organizations;
- (e) prescribe the basic agreements and arrangements in respect of the system commonly known as "check-off" and the subscriptions to trade unions, federations of trade unions and employers' organizations; and
- (f) provide generally for all matters connected with or incidental to the matters referred to in this section.

Inapplicability of
certain laws
Cap. 42:01
Cap. 42:03

69. The Companies Act and the Co-operative Societies Act shall not apply to a trade union, federation of trade unions or employers' organization and the registration of a trade union, federation of trade unions or employers' organization under either of those Acts shall be void.

Matters not
affected by Act

70. Nothing in this Act shall —

- (a) affect any agreement —
 - (i) between partners as to their own business;
 - (ii) between an employer and those employed by him as to their employment by him; or
 - (iii) in consideration of the sum of the goodwill of a business or of instruction in a profession, trade or handicraft; or
- (b) preclude any registered trade union, federation of trade unions or employers' organization from providing benefits for its members or any registered federation of trade unions from providing benefits for members of a trade union belonging to the federation.

Transitional
provisions

71. The transitional provisions set out in the Second Schedule shall have effect as part of this Act.

Repeal and
amendment
of certain
laws
Cap. 48:01
Cap. 18:01

72. The Trade Unions Act is hereby repealed and the Societies Act is amended in section 3 (1) thereof by substituting for paragraph (c) of the definition of "society" the following new paragraph —

“(c) any trade union, federation of trade unions or employers’ organization registered under the Act for the time being in force providing for the registration of trade unions, federations of trade unions and employers’ organizations;”.

FIRST SCHEDULE

(ss.10, 12 and 34)

MATTERS FOR WHICH CONSTITUTIONS SHALL PROVIDE

1. In respect of every registered trade union, federation of trade unions or employers’ organization, the constitution thereof shall provide for the following matters —
 - (a) its name and postal address and the location of its principal office;
 - (b) the whole of the objects for which it is established, the purposes for which its funds may be expended, the conditions under which any members thereof shall be entitled to any benefit issued thereby and the fines and forfeitures that may be imposed on any member thereof;
 - (c) the manner of amending the constitution;
 - (d) the appointment or election to and removal from its executive committee and the appointment or election and removal of its secretaries, treasurers and other officers;
 - (e) the custody, investment and loan of its funds, the designation of the officer or officers responsible therefor and the annual audit of the balance sheet prepared in accordance with the section 43;
 - (f) the times at which its books of account, together with a list of its current members, shall be open to inspection in accordance with section 45;
 - (g) the manner of its dissolution and the consequent disposal of its assets;
 - (h) the amount of subscriptions and fees payable by its members; and
 - (i) the maintenance of a separate fund for all moneys received or paid by it in respect of any contributory provident, welfare or pension fund scheme that may be established.
2. In respect of every registered trade union or federation of trade unions, the constitution thereof shall provide for the appointment or election and removal of trustees for the purposes of section 26.
3. In respect of every registered trade union or employers’ organization, the constitution thereof shall provide for the following matters —
 - (a) the right of every one of its members to a reasonable opportunity to vote on matters concerning it;
 - (b) the taking of all decisions affecting its members generally by a secret ballot if the same is required by those members;
 - (c) the manner of nominating and withdrawing the nomination of a negotiating body on its behalf; and

Constitution of registered trade union, federation of trade unions or employers’ organization

Further provision in relation to constitution of registered trade union or federation of trade unions

Further provisions in relation to constitution of registered trade union or employers’ organization

Further provisions in relation to constitution of registered trade union alone

(d) the disqualification of a member thereof from voting on any matter concerning it and from receiving benefits if his subscription is in arrear.

4. (1) In respect of every registered trade union, the constitution thereof shall provide for the following matters —

- (a) arrangements for explaining to its members the contents of the balance sheet to be exhibited at its registered office and at the principal office of each of its branches in terms of section 43;
- (b) the extent and manner in which it may control the activities of its branches; and
- (c) subject to section 47, the circumstances permitting and the procedure to be adopted for amalgamation together with one or more other registered trade unions as one trade union, taking part in forming a federation of trade unions or joining an existing federation of trade unions.

(2) In respect of a registered trade union the members of which are engaged in or working at more than one trade or calling, the constitution thereof shall make adequate provision for the protection and promotion of those members' respective sectional industrial interests.

Further provisions in relation to constitution of registered federation of trade unions alone

5. In respect of every registered federation of trade unions, the constitution thereof shall provide for the following matters —

- (a) the right of every trade union belonging to the federation to a reasonable opportunity to vote through a delegate on matters concerning the federation;
- (b) the taking of all decisions affecting the trade unions belonging to the federation generally by a secret ballot if the same is required by the delegates of those trade unions; and
- (c) the disqualification of a trade union belonging to the federation from voting through a delegate on any matter concerning the federation and from receiving benefits if its subscription is in arrear.

SECOND SCHEDULE

(s. 71)

TRANSITIONAL PROVISIONS

Existing trade union, federation of trade unions or employers' organization
Cap. 48:01
Cap. 18:01

1. Every trade union, federation of trade unions or employers' organization that was, immediately before the commencement of this Act, registered under the Trade Unions Act repealed by this Act or the Societies Act shall be deemed, subject to the other provisions of this Schedule, to be registered in accordance with this Act.

Duty of registrar to examine constitution of existing trade union, federation of trade unions or employers' organization

2. (1) Within 6 months immediately after the commencement of this Act, the Registrar shall examine the constitutions of all those bodies deemed, by virtue of paragraph 1, to be registered in accordance with this Act.

(2) If, after examining the constitution of a body such as is referred to in subparagraph (1), the Registrar is of the opinion that it is in conformity with this Act and with any regulations made thereunder, he shall issue to that body an appropriate certificate of registration in such form as the Minister may approve.

(3) If, after examining the constitution of a body such as is referred to in subparagraph (1), the Registrar is of the opinion that it is not in conformity with this Act or with any regulations made thereunder, he shall, by notice in writing served on that body, —

- (a) inform it of his opinion and the ground thereof; and
- (b) specify a reasonable time, being not less than 3 months immediately after the date of service of the notice, within which the body shall amend its constitution to bring it into conformity with this Act and with any regulations made thereunder.

(4) Where a notice has been served in accordance with subparagraph (3) and the body in question fails, within the time therein specified, to amend its constitution as required, the body shall thereupon cease to be deemed, by virtue of paragraph 1, to be registered in accordance with this Act.

(5) Where the Registrar is satisfied that the body in question has amended its constitution as required by the notice served on it in accordance with subparagraph (3), he shall issue to that body an appropriate certificate of registration in such form as the Minister may approve.

3. (1) Where any person is aggrieved by a notice of the Registrar in terms of paragraph 2 (3) or by the failure of the Registrar to issue an appropriate certificate of registration in terms of paragraph 2 (5), that person may appeal against the notice or failure to the High Court.

Appeals

(2) Section 13 shall apply, with all necessary modifications, to appeals brought under this paragraph.

4. Where a body deemed, by virtue of paragraph 1, to be registered in accordance with this Act ceases, by virtue of paragraph 2 (4), to be so deemed, section 14 shall apply, with all necessary modifications, in respect of that body as if its registration has been cancelled under section 12 and an order cancelling its registration has been served on it in accordance with that section on the date on which the period specified in the material notice, served on the body in accordance with paragraph 2 (3), expired.

Consequences of ceasing to be deemed to be registered

5. The first annual general meeting of a registered trade union shall begin not later than 15 months immediately after its formation:

First annual general meeting of registered trade union

Provided that an annual general meeting of the trade union shall be held in the financial year immediately following the financial year in which the trade union was formed.

PASSED by the National Assembly this 31st day of March, 1983.

B.K. TEMANE,
Clerk of the National Assembly.