

## LEGISLATIVE COUNCIL BRIEF

Trade Unions Ordinance  
(Chapter 332)

### TRADE UNIONS (AMENDMENT) BILL 2025

#### INTRODUCTION

A At the meeting of the Executive Council on 8 April 2025, the Council ADVISED and the Chief Executive (“CE”) ORDERED that the Trade Unions (Amendment) Bill 2025 (“the Bill”) at **Annex A** should be introduced into the Legislative Council (“LegCo”) to –

- (i) strengthen the regulation of trade unions in the interests of national security; and
- (ii) introduce related and miscellaneous amendments to improve the trade union regulatory regime.

#### JUSTIFICATIONS

2. The Registry of Trade Unions (“RTU”) of the Labour Department (“LD”) administers the Trade Unions Ordinance (Cap. 332) (“TUO”) to foster sound trade union management to ensure that trade unions’ administration and conduct of affairs comply with TUO and their rules registered with RTU.

#### Need for Enhancing the Trade Union Regulatory Regime

3. Following the 2019 black-clad violence, individuals and groups with ulterior motives sought to perform acts and activities endangering national security under the guise of trade unions. From November 2019 to May 2020, RTU received a total of 4 386 applications for registration of trade unions, compared to an average of 15 applications over the

immediately preceding five years. RTU implemented measures in 2021 and 2022 to strengthen the vetting of registration applications. As at end-2024, among the 4 386 registration applications, 736 trade unions were registered under TUO (of which 192 were later de-registered by voluntary dissolution, at their own request or owing to contravention of TUO) and the remaining 3 650 applications were withdrawn. The reasons for withdrawal included failure to submit the required documents or information, failure to respond to RTU's enquiries and failure to secure sufficient voting members, etc. At end-2024, there were a total of 1 412 registered trade unions, an increase by 54% over 917 at end-2019.

4. Besides, in recent years, some registered trade unions engaged in activities suspected to be in contravention of TUO and / or inconsistent with their registered rules. RTU has proactively monitored these trade unions and taken timely follow-up actions. Depending on the circumstances, RTU gives verbal advice or issues advisory / warning letters to the trade unions concerned. In case of serious non-compliance, the Registrar of Trade Unions ("the Registrar") may cancel the registration of trade unions in accordance with the law. The Registrar cancelled the registration of one trade union each in 2021 and 2023, on the ground that they had been used for purposes inconsistent with their objects or rules, thus contravening TUO.

5. Pursuant to Article 9 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region ("NSL"), the Government of the Hong Kong Special Administrative Region ("the HKSAR") shall take necessary measures to strengthen public communication, guidance, supervision and regulation over national security matters relating to social organisations. Such "social organisations" include trade unions registered under TUO.

6. According to section 8(3) of the Safeguarding National Security Ordinance (6 of 2024) ("SNSO"), if the law of the HKSAR confers any function on a person (including the Registrar), the function is to be read as including a duty to safeguard national security. In making any decision in the performance of the function, the Registrar must regard national security as the most important factor, and give appropriate consideration to it accordingly.

7. Having regard to paragraphs 3 to 6 above, we propose to amend TUO to better safeguard national security and strengthen the statutory powers of the Registrar in the supervision and regulation of trade unions. We also propose related and miscellaneous amendments to improve the

trade union regulatory regime.

## **Legislative Proposal**

### **(A) Key Considerations**

8. In drawing up the proposed amendments, we seek to address the current situation of local trade unions; discharge our duties under NSL and complement SNSO; as well as protect employees' right and freedom to form and join trade unions pursuant to the Basic Law of the HKSAR of the People's Republic of China ("the Basic Law"), the Hong Kong Bill of Rights Ordinance (Cap. 383)<sup>1</sup> and relevant international conventions<sup>2</sup>. We are mindful that the right to freedom of association is not absolute or unrestricted. According to Article 22 of the International Covenant on Civil and Political Rights (its provisions as applied to the HKSAR are incorporated into the domestic law of the HKSAR by the Hong Kong Bill of Rights Ordinance), the right to freedom of association may be subject to restrictions prescribed by law and which are necessary in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. Article 8 of the International Covenant on Economic, Social and Cultural Rights also stipulates that the right to form and join trade unions of his choice for the promotion and protection of his economic and social interests, and the right of trade unions to function freely may be subject to limitations prescribed by law and which are necessary in the interests of national security or public order or for the protection of the rights and

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<sup>1</sup> Article 27 of the Basic Law and Article 18 of the Hong Kong Bill of Rights, as set out in the Hong Kong Bill of Rights Ordinance, guarantee that Hong Kong residents shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

<sup>2</sup> Relevant international conventions include the Freedom of Association and Protection of the Right to Organise Convention, 1948 (International Labour Convention ("ILC") No. 87) of the International Labour Organisation. ILC No. 87 is applied to Hong Kong after modifications. Article 3 of the Convention stipulates that workers' organisations shall have the right to draw up their constitutions and rules, to organise their administration and activities and to formulate their programmes, etc. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof. Article 4 of the Convention also stipulates that workers' organisations shall not be liable to be dissolved or suspended by administrative authority. Moreover, Article 8 of the Convention stipulates that in exercising the rights provided for in the Convention, workers, employers and their respective organisations shall respect the law of the land.

freedoms of others.

## **(B) Proposed Amendments**

### ***Safeguarding National Security***

B 9. To safeguard national security, we propose to strengthen the regulation of trade unions under TUO (see specific contents at **Annex B**), including -

(I) Regulation over trade union registration and eligibility for assuming union office

- (i) empowering the Registrar to refuse applications for new registration or amalgamation of trade unions as necessary for safeguarding national security;
- (ii) prohibiting persons who have been convicted of specified offences from serving as officers (i.e. members of the executives) of any trade unions or promoters of new union registration applications;

(II) Forestalling undue interference from an external force / organization established in an external place

- (iii) regulating trade unions' receipt and use of contributions or donations provided by an external force;
- (iv) regulating trade unions' affiliation with any organization established in an external place;
- (v) regulating the assumption of office by trade union officers in any organization established in an external place; and

(III) Enhancement of enforcement powers

- (vi) strengthening the statutory powers of the Registrar in regulating and investigating trade unions.



## ***Other Proposed Amendments to Improve the Trade Union Regulatory Regime***

10. We also propose related and miscellaneous amendments to improve the trade union regulatory regime (see specific contents at **Annex C**), including -

C

(I) Regulation over cancellation of trade union registration and naming of trade unions

- (i) empowering the Registrar to cancel the registration of a trade union undergoing dissolution on the ground that the general interests of the members of the trade union have been prejudiced, or would likely be prejudiced, in the dissolution process;
- (ii) aligning the notice period and appeal period for cancelling the registration of a trade union;
- (iii) improving regulation over the naming of trade unions;

(II) Relaxing the eligibility for trade union membership and the use of trade union funds for local elections

- (iv) allowing registered trade unions to consider whether to admit persons who are not ordinarily resident in Hong Kong but are engaged or employed in Hong Kong in a trade, industry or occupation with which the trade unions are directly concerned as members;
- (v) allowing trade unions to use their funds (not provided by an external force) for elections of the Election Committee (“EC”) and CE; and

(III) Technical amendments

- (vi) facilitating trade unions’ operation and rationalising RTU’s work.

11. Overall speaking, the proposed amendments mentioned above will better safeguard national security and improve the trade union regulatory regime in a targeted manner. At the same time, they have due regard to the freedom and right of Hong Kong residents to form and join

trade unions, and will not adversely affect the operation of law-abiding trade unions.

### *Offences*

12. To enhance the deterrent effect of TUO for its effective implementation, we have reviewed the penalties of the existing offences and the new offences related to the proposed amendments. Details of the proposed penalties of the existing and new offences are set out at **Annex D**.

D

## **OTHER OPTIONS**

13. Introducing legislative amendments is the only way to achieve the policy objectives of better safeguarding national security and improving the trade union regulatory regime. There is no other option.

## **THE BILL**

14. The main provisions of the Bill are as follows:

### **Part 1 — Preliminary**

- (i) **Clause 1** sets out the short title and provides for commencement.

### **Part 2 — Amendments to TUO**

- (ii) **Clause 3** amends section 2 of TUO to add the definitions of *external force*, *external place*, etc.
- (iii) **Clause 7** amends section 5 of TUO—
  - (a) to provide that a person's signature on an application for registration of a trade union is not to be counted as a valid signature if the person is not allowed to sign the application under section 17 of TUO as amended by the Bill; and
  - (b) to increase the penalty for an offence under that section 5.

- (iv) **Clause 9** amends section 7 of TUO to empower the Registrar—
  - (a) to refuse to register a trade union if it is necessary for safeguarding national security; and
  - (b) to refuse to register a trade union on the grounds that the name of the trade union is likely to deceive or mislead the public etc.
- (v) **Clause 10** amends section 8 of TUO to provide that an appeal must not be brought in relation to the Registrar's decision to refuse to register a trade union on the ground that it is necessary for safeguarding national security.
- (vi) **Clause 12** amends section 10 of TUO to provide that the Registrar may cancel the registration of a trade union if the general interests of the members of the trade union are prejudiced in the course of dissolution of the trade union. **Clause 14** consequentially amends section 12 of TUO to provide that a member of the trade union who considers that no such circumstance exists may bring an appeal in relation to the decision to cancel the registration.
- (vii) **Clause 13** amends section 11 of TUO to change the period for issuing previous notice of cancelling the registration of a trade union by the Registrar from 2 months to 28 days.
- (viii) **Clause 15** adds a new Division 4 to Part III of TUO to empower the Registrar to appoint a manager to take over the management of property of a trade union pending the determination of appeal against the cancellation of registration of the trade union, and to provide for the powers of a manager. **Clause 15** also adds an interpretative provision to provide for the meaning of the property of a trade union.
- (ix) **Clause 16** amends section 14 of TUO to allow reasonable steps relating to the dissolution of the trade union to be taken after the registration has been cancelled.
- (x) **Clause 20** amends section 17 of TUO to—
  - (a) allow a registered trade union to accept, in accordance with its rules, as a member of the trade union a person who is not ordinarily resident in Hong Kong but is

- engaged or employed in Hong Kong in a trade, industry or occupation with which the trade union is directly concerned;
- (b) prohibit a person who has been convicted of an offence endangering national security from holding office in any trade union or signing any application for registration of a trade union;
  - (c) prohibit a person who has been convicted of any other specified offence from signing any application for registration of a trade union; and
  - (d) increase the penalty for the contravention of an offence under that section.
- (xi) **Clause 84** consequentially amends Schedule 1 to TUO to add any offence endangering national security to that Schedule.
- (xii) **Clause 21** adds a new section 17AA to TUO to require an officer of a trade union to notify the Registrar after the officer is charged with and convicted of any specified offence. **Clause 22** consequentially amends section 17A of TUO to provide that, if an officer of a trade union fails to notify the Registrar after the officer is charged with any specified offence, the Registrar may serve a written notice or apply to the court for an injunction requiring the officer to cease holding office until the proceedings relating to the offence have been concluded.
- (xiii) **Clause 23** adds a new section 17C to TUO to provide for matters relating to voting by members' representatives of a trade union.
- (xiv) **Clause 29** amends section 20A of TUO to include the mens rea in an offence under subsection (4) of that section and to increase the penalty for that offence.
- (xv) **Clause 32** amends section 22 of TUO to increase the penalty for an offence under that section.
- (xvi) **Clause 37** amends section 27 of TUO to empower the Registrar to refuse to give consent to an intended amalgamation of trade unions if it is necessary for safeguarding national security, and to provide that an appeal must not be brought in relation to such a decision.

- (xvii) **Clause 41** amends section 31 of TUO to provide that an authorization or consent for being or becoming a member of an organization in external place obtained by a trade union before amalgamation does not apply in relation to the trade union formed by amalgamation. In addition, **clause 38** repeals section 28 of TUO so that the relevant application for amalgamation of trade unions is not required to be referred to CE.
- (xviii) **Clause 42** adds a new section 31A to TUO to require that a trade union must notify the Registrar within 14 days after passing a resolution for dissolution and to provide for the relevant offence.
- (xix) **Clause 43** amends section 32 of TUO to change the persons to whom an offence under that section applies, and to increase the penalty for that offence.
- (xx) **Clause 46** amends section 33 of TUO to increase the penalty for an offence under that section.
- (xxi) **Clause 47** amends section 33A of TUO so that a trade union may also utilize an electoral fund for a subsector election of EC and an election of CE.
- (xxii) **Clause 49** adds a new section 34A to TUO to provide for the restrictions on the receipt by a trade union of contributions or donations from an external force.
- (xxiii) **Clause 51** amends section 36 of TUO to require that a trade union that receives contributions or donations from an external force must furnish to the Registrar a statement of account for the relevant receipts and expenditures, and to increase the penalty for an offence under that section.
- (xxiv) **Clause 52** adds a new section 36A to TUO to require a trade union to keep an account book, verifying documents for records of transactions, the register of members, minutes and records of resolutions, etc., and to provide for the relevant offences. **Clause 55** adds a new section 38A to TUO to provide for transitional provisions in relation to the duty to keep records and documents.

- (xxv) **Clause 58** adds a new section 44A to TUO to provide for the interpretation of the new Part VIA.
- (xxvi) **Clause 59** amends section 45 of TUO to—
- (a) extend the restrictions on a trade union's being or becoming a member of an organization in foreign country to an organization in external place;
  - (b) empower the Registrar to serve a written notice on a trade union that contravenes the restrictions requiring the trade union to cease to be a member of the organization in external place; and
  - (c) provide for the relevant offences.
- (xxvii) **Clause 85** consequentially amends Schedule 2 to TUO, and **clause 25** adds a new section 18AA to TUO, to provide for the relevant transitional matters.
- (xxviii) **Clause 60** adds a new section 45AA to TUO to—
- (a) provide for the restrictions on a trade union officer's being an office-bearer of an organization in external place;
  - (b) empower the Registrar to serve a written notice on a trade union officer who contravenes the restrictions requiring the officer to cease holding office in the trade union; and
  - (c) provide for the relevant offences.
- (xxix) **Clause 61** adds a new section 45B to TUO to provide for the relevant transitional matters.
- (xxx) **Clauses 62, 63 and 65** respectively amend sections 46, 47 and 50 of TUO to increase the penalty for an offence under those sections. **Clause 64** amends section 49 of TUO to increase the maximum limit on the sum in respect of the punishment for withholding the property of a trade union under that section.
- (xxxi) **Clause 66** adds a new section 50A to TUO to provide for the offence relating to the furnishing of false or misleading information. **Clause 73** consequentially repeals section 58(3) and (4) of TUO.

- (xxxii) **Clauses 67 and 68** respectively add a new Part VIIIA to TUO, and substitute section 52 of TUO, to provide for the enforcement powers of the Registrar and the officers authorized by the Registrar and the relevant offences, which include—
- (a) the powers to conduct inquiries (new section 51C);
  - (b) the powers to require verification of explanation, etc. by statutory declaration (new section 51D);
  - (c) the offences in relation to destruction of documents and information (new section 51F);
  - (d) the powers to enter premises of trade unions (new section 51G);
  - (e) the powers to enter and search premises with warrants (new section 51H); and
  - (f) the powers to issue notices for the contravention of objects or rules (section 52 as amended).
- (xxxiii) In view of the new Part VIIIA, **Clauses 53 and 54** consequentially amend section 37 of TUO and repeal section 38 of TUO respectively.
- (xxxiv) **Clause 71** amends section 56 of TUO to relax the requirements relating to the joining of a trade union in a trade union federation, and to increase the penalty for an offence under that section.
- (xxxv) **Clause 74** amends section 59 of TUO to increase the maximum penalty that may be prescribed for an offence under the regulations under TUO.
- (xxxvi) **Clause 77** adds a new section 61A to TUO to provide for the standard of proof for the defence for an offence under TUO.
- (xxxvii) **Clause 78** substitutes section 62 of TUO to provide that the prosecution deadline under that section only applies to summary offences.
- (xxxviii) **Clause 81** amends section 66 of TUO to require the Registrar to notify in the Gazette the fact that the Registrar has appointed a manager or liquidator for a trade union.
- (xxxix) The Bill also makes miscellaneous amendments to TUO,

which include—

- (a) replacing prescribed forms by specified forms;
- (b) replacing pronouns specific to a gender by gender-neutral nouns; and
- (c) replacing certain archaic language, or expressions no longer used in new legislation, by plain language.

### **Part 3 — Amendments to the Trade Union Registration Regulations (“TURR”)**

- (xl) **Clause 86** amends regulation 2 of TURR to simplify the manner in which the addition of, or the amendment to, an entry in the register of a trade union is approved.
- (xli) **Clauses 87 to 96** make other miscellaneous amendments to TURR.

15. The existing provisions of TUO and its subsidiary legislation being amended are at **Annex E**.

### **LEGISLATIVE TIMETABLE**

16. The legislative timetable will be –

Publication in the Gazette	17 April 2025
First Reading and commencement of Second Reading debate	30 April 2025
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

### **IMPLICATIONS OF THE PROPOSAL**

17. The proposal has economic, financial and civil service implications as set out at **Annex F**. The proposal is in conformity with the Basic Law, including provisions concerning human rights. The proposal will not affect the current binding effect of TUO and its subsidiary legislation. The proposal has no environmental, productivity, family or gender implication. It has no sustainability implication other than those set out in the economic implications paragraph in Annex F.



## **PUBLIC CONSULTATION**

18. We consulted the Labour Advisory Board (“LAB”) and the LegCo Panel on Manpower on the legislative proposal on 22 January and 24 February 2025 respectively, and obtained their support.

19. We also briefed the Hong Kong Federation of Trade Unions, the Federation of Hong Kong and Kowloon Labour Unions and some registered trade unions on the legislative proposal from February to April 2025. They were supportive of the proposal, while enquiring about its details. Moreover, a technical briefing for the media on the proposal was held on 19 February, followed by a press release on the same day. The media reports and commentaries on the proposal were generally positive.

## **PUBLICITY**

20. A press release will be issued on the day on which the Bill is gazetted. A line-to-take will be prepared for answering press enquiries and a spokesperson from LD will be made available to handle these enquiries.

## **ENQUIRIES**

21. Enquiries relating to this brief can be directed to Mr Raymond LIANG, Assistant Commissioner for Labour (Labour Relations), at 2852 4099 or Ms Christine BUT, Registrar of Trade Unions, at 3575 8585.

**Labour and Welfare Bureau**  
**Labour Department**

**16 April 2025**

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# A BILL

## To

Amend the Trade Unions Ordinance and its subsidiary legislation to empower the Registrar of Trade Unions (*Registrar*) to refuse applications of trade unions for registration or amalgamation if it is necessary for safeguarding national security; to prohibit persons who have been convicted of an offence endangering national security from holding office in any trade unions or signing any applications for registration of trade unions; to impose restrictions on trade unions' receiving and using of contributions or donations made by external forces; to provide for regulation in relation to trade unions' being or becoming members of organizations in external places and in relation to members of the executives of trade unions' being office-bearers of organizations in external places; to empower the Registrar to appoint managers to take over the management of the property of trade unions pending the determination of appeals against the cancellation of the registrations of such trade unions; to strengthen the enforcement powers of the Registrar and authorized officers; to adjust the penalties for the offences under the Ordinance; to improve other aspects of the regulatory regime in respect of trade unions; and to make related and miscellaneous amendments.

Enacted by the Legislative Council.

## Part 1

### Preliminary

#### 1. Short title and commencement

- (1) This Ordinance may be cited as the Trade Unions (Amendment) Ordinance 2025.
- (2) This Ordinance comes into operation on the expiry of 6 months after the day on which it is published in the Gazette.

#### 2. Enactments amended

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

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**Part 2****Amendments to Trade Unions Ordinance (Cap. 332)****3. Section 2 amended (interpretation)****(1) Section 2—****Repeal**

“, unless the context otherwise requires”.

**(2) Section 2, English text, definition of *executive*—****Repeal**

“chairman, vice-chairman, secretary or treasurer thereof”

**Substitute**

“chairperson, vice-chairperson, secretary or treasurer of the trade union, the branch of the trade union or the trade union federation”.

**(3) Section 2, English text, definition of *injury*—****Repeal**

“his”

**Substitute**

“the person’s”.

**(4) Section 2, Chinese text, definition of *損害*—****Repeal**

“, 就”

**Substitute**

“就”.

**(5) Section 2, English text, definition of *intimidation*—****Repeal**

“himself or to any member of his family or to any of his”

**Substitute**

“the person or to any member of the person’s family or to any of the person’s”.

**(6) Section 2, Chinese text, definition of *恐嚇*—****Repeal**

“, 就”

**Substitute**

“就”.

**(7) Section 2, definition of *lock-out*—****Repeal**

“him in”

**Substitute**

“the employer in”.

**(8) Section 2, definition of *lock-out*—****Repeal**

“him,”

**Substitute**

“the other employer.”.

**(9) Section 2, definition of *officer*—****Repeal**

“includes any member of the executive thereof”

**Substitute**

“means any member of the executive of the trade union, the branch of the trade union or the trade union federation”.

**(10) Section 2, Chinese text, definition of *職員*—**



**Repeal**

“，就”

**Substitute**

“就”。

- (11) Section 2, Chinese text, definition of
- ~~職員~~
- 

**Repeal**

“師。”

**Substitute**

“師；”。

- (12) Section 2, definition of
- paid staff*
- 

**Repeal**

“in”

**Substitute**

“，in”。

- (13) Section 2, English text, definition of
- paid staff*
- 

**Repeal**

“thereof”

**Substitute**

“of the trade union, the branch of the trade union or the trade union federation”。

- (14) Section 2, English text, definition of
- registered office*
- 

**Repeal**

“the head office thereof”

**Substitute**

“its head office”。

- (15) Section 2, Chinese text, definition of
- ~~已登記辦事處~~
- 

**Repeal**

“，就”

**Substitute**

“就”。

- (16) Section 2, definition of
- strike*
- 

**Repeal**

“their employer”

**Substitute**

“the employer of those employed persons”。

- (17) Section 2, definition of
- voting member*
- 

**Repeal**

“registered”。

- (18) Section 2, Chinese text, definition of
- ~~分會~~
- 

**Repeal**

“他們”

**Substitute**

“該等會員”。

- (19) Section 2, Chinese text, definition of
- ~~經費~~
- 

**Repeal**

“，就”

**Substitute**

“就”。

- (20) Section 2—

**Add in alphabetical order**“*external force* (境外勢力) has the meaning given by section 6 of the Safeguarding National Security Ordinance (6 of 2024);

*external place* (境外) has the meaning given by section 3(1) of the Safeguarding National Security Ordinance (6 of 2024);

*function* (職能) includes a power and a duty;

*specified form* (指明表格) means a form specified under section 58(1);”.

4. **Section 3 amended (appointment of Registrar, etc.)**

(1) Section 3, English text—

**Repeal**

“shall appoint such person as he may think fit”

**Substitute**

“must appoint a person the Chief Executive considers appropriate”.

(2) Section 3—

**Repeal**

“a deputy registrar, assistant registrars and such other officers as may from time to time appear to him”

**Substitute**

“any other persons that may from time to time appear to the Chief Executive”.

5. **Part III, Division 1 heading added**

Before section 4—

**Add**

**“Division 1—Register”.**

6. **Part III, Division 2 heading added**

Before section 5—

**Add**

**“Division 2—Procedures, etc. for Applying for Registration”.**

7. **Section 5 amended (trade unions to be registered, etc.)**

(1) Section 5(2)—

**Repeal**

“shall be made to the Registrar in the prescribed form within 30 days of the establishment thereof”

**Substitute**

“must be made to the Registrar in the specified form within 30 days beginning on the date of establishment of the trade union”.

(2) Section 5(3), English text—

**Repeal**

“such application shall”

**Substitute**

“application for registration of a trade union must”.

(3) Section 5(3), English text—

**Repeal**

“thereof”

**Substitute**

“of the trade union”.

(4) After section 5(3)—

**Add**

“(3A) However, a person’s signature is not to be counted for the purposes of subsection (3) if the person is not allowed to sign the application for registration as a voting member of the trade union under section 17(2A) or (3).”.

(5) Section 5(4)—

**Repeal**

“Upon receipt of any such application in the prescribed form, the Registrar shall”

**Substitute**

“On receiving an application in the specified form, the Registrar must”.

(6) Section 5(4)—

**Repeal**

“prescribed form acknowledging receipt of such application”

**Substitute**

“specified form acknowledging receipt of the application”.

(7) Section 5(4), English text—

**Repeal**

“certificate or a copy thereof certified under the hand of the Registrar shall, until the contrary is proved, be received in evidence as proof of the facts specified therein”

**Substitute**

“certificate, or its copy certified under the hand of the Registrar, is, until the contrary is proved, to be received in evidence as proof of the facts specified in the certificate or the copy”.

(8) Section 5(5)—

**Repeal**

“shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 6 months”

**Substitute**

“commits an offence and is liable on conviction on indictment to a fine at level 5 and to imprisonment for 3 years”.

(9) Section 5(5), English text, proviso—

**Repeal**

“subsection shall”

**Substitute**

“subsection does”.

**8. Section 6 amended (registration)**

(1) Section 6(1)—

**Repeal**

“Whenever he has registered a trade union, the Registrar shall issue to the trade union a certificate of registration in the prescribed”

**Substitute**

“Whenever the Registrar has registered a trade union, the Registrar must issue to the trade union a certificate of registration in the specified”.

(2) Section 6(1), English text—

**Repeal**

“such certificate, or a copy thereof certified under his hand shall, unless proved to have been cancelled,”

**Substitute**

“the certificate, or its copy certified under the hand of the Registrar, is, unless proved to have been cancelled, to”.

- (3) Section 6(1), English text, proviso—

**Repeal**

“shall be”

**Substitute**

“is”.

- (4) Section 6(2), English text—

**Repeal**

everything after “direct”

**Substitute**

“the applicants to produce any documents, or to provide any particulars concerning the trade union that the Registrar requires, in order to satisfy the Registrar that the trade union is entitled to registration under this Ordinance.”.

**9. Section 7 amended (refusal of registration)**

- (1) Before section 7(1)—

**Add**

“(1A) The Registrar may refuse to register a trade union if the Registrar reasonably believes that it is necessary for safeguarding national security to refuse to register the trade union.”.

- (2) Section 7(1)—

**Repeal**

“The Registrar may in his”

**Substitute**

“In addition, the Registrar may in the Registrar’s”.

- (3) Section 7(1)(a)—

**Repeal**

“; or”

**Substitute a semicolon.**

- (4) Section 7(1)(b)—

**Repeal**

“or”.

- (5) Section 7(1)(c)—

**Repeal**

everything after “register the trade union”

**Substitute**

“—

- (i) is identical with that by which any other trade union, whether existing or having ceased to exist, is or has been registered;
- (ii) so resembles the name mentioned in subparagraph (i) as to be likely to deceive or mislead the public, the members of the trade union or the members of any other existing trade union;
- (iii) is likely to deceive or mislead, as to the nature and purposes of the trade union, the public, the members of the trade union or the members of any other existing trade union; or
- (iv) is inconsistent with the objects or rules of the trade union; or”.

- (6) Section 7(1)(d), English text—

**Repeal**

“he”

**Substitute**

“the Registrar”.

## (7) Section 7(1)(d)—

**Repeal**

“shall not refuse registration solely on the ground that the membership of the trade union applying for registration”

**Substitute**

“must not refuse to register the trade union applying for registration solely on the ground that the membership of the trade union”.

## (8) Section 7(2)—

**Repeal**

everything after “trade union,”

**Substitute**

“the Registrar must immediately serve on the applicants for the registration a written notice to that effect and must specify in the notice the ground for refusal.”.

**10. Section 8 amended (appeals against refusal of Registrar to register trade union)**

## (1) Section 8, heading, after “union”—

**Add**

“under section 7(1)”.

## (2) Section 8—

**Repeal**

“, any of the applicants for the registration thereof”

**Substitute**

“under section 7(1), any of the applicants for the registration”.

## (3) Section 8(b), Chinese text—

**Repeal**

“並非”

**Substitute**

“不”.

## (4) Section 8(c)—

**Repeal**

“7(1)(c);”

**Substitute**

“7(1)(c); or”.

## (5) Section 8—

**Repeal**

“the service”

**Substitute**

“the date of service”.

## (6) Section 8—

**Repeal**

“as aforesaid, so declare and thereupon the Registrar shall”

**Substitute**

“as in any of the cases provided in paragraphs (a), (b), (c) and (d), so declare and the Registrar must then”.

## (7) Section 8—

**Repeal**

“save as hereinbefore provided, the appeal shall”

**Substitute**

“except as provided in any of those paragraphs, the appeal must”.

**11. Part III, Division 3 heading added**

Before section 10—

**Add****“Division 3—Procedures, etc. for Cancelling  
Registration”.****12. Section 10 amended (cancellation of registration)**

(1) Section 10(1), English text—

**Repeal**

“shall”

**Substitute**

“may”.

(2) Section 10(1)(a), English text—

**Repeal**

“such manner as the Registrar may require”

**Substitute**

“any manner the Registrar requires”.

(3) Section 10(1)(b)(i), (ii), (iii), (iv) and (v)—

**Repeal**

“; or”

**Substitute a semicolon.**

(4) Section 10(1)(b)(vi), English text—

**Repeal**

“members thereof”

**Substitute**

“members of the trade union”.

(5) Section 10(1)(b)(vi)—

**Repeal**

“such trade union been omitted from the accounts thereof; or”

**Substitute**

“the trade union been omitted from the accounts;”.

(6) After section 10(1)(b)(vi)—

**Add**

“(via) the trade union has passed a resolution for dissolution under the rules of the trade union, but the general interests of the members of the trade union have been prejudiced, or would likely be prejudiced, in the course of dissolution of the trade union; or”.

(7) After section 10(1)—

**Add**

“(1A) To avoid doubt, even if a trade union has passed a resolution for dissolution under the rules of the trade union, the Registrar may cancel the registration of the trade union under subsection (1).”.

**13. Section 11 amended (notice of cancellation)**

(1) Section 11—

**Renumber the section as section 11(1).**

(2) Section 11(1)—

**Repeal**

“shall give to the trade union not less than 2 months’ previous notice in writing specifying the ground upon which he”

**Substitute**

“must issue to, and serve on, the trade union not less than 28 days’ previous notice in writing specifying the ground on which the Registrar”.

- (3) Section 11(1), English text, proviso—

**Repeal**

“no such notice shall be”

**Substitute**

“such a notice is not”.

- (4) After section 11(1)—

**Add**

“(2) If the dissolution of the trade union is registered by the Registrar under section 32(1) during the period mentioned in subsection (1), the notice mentioned in subsection (1) ceases to have effect.”.

**14. Section 12 amended (appeals in relation to cancellation by Registrar of registration of trade union)**

- (1) Section 12(1), English text—

**Repeal**

“his”

**Substitute**

“the Registrar’s”.

- (2) Section 12(1)(f)—

**Repeal**

“such accounts,”

**Substitute**

“the accounts; or”.

- (3) After section 12(1)(f)—

**Add**

“(g) the general interests of the members of the trade union have not been prejudiced or would not likely be prejudiced (as the case may be) in the course of dissolution of the trade union,”.

- (4) Section 12(1)—

**Repeal**

“the service”

**Substitute**

“the date of service”.

- (5) Section 12(1), English text—

**Repeal**

“upon”

**Substitute**

“on”.

- (6) Section 12(1)—

**Repeal**

“aforesaid”

**Substitute**

“in any of the cases provided in paragraphs (a), (b), (c), (d), (e), (f) and (g)”.

- (7) Section 12(1)—

**Repeal**

“save as hereinbefore provided, the appeal shall”

**Substitute**

“except as provided in any of those paragraphs, the appeal must”.

- (8) Section 12(2)(a)—  
**Repeal**  
“given”  
**Substitute**  
“issued or served”.
- (9) Section 12(2)(b)—  
**Repeal**  
“registration;”  
**Substitute**  
“registration; or”.
- (10) Section 12(2)—  
**Repeal**  
“cancellation of its registration,”  
**Substitute**  
“date on which its registration is cancelled,”.
- (11) Section 12(2)—  
**Repeal**  
“aforesaid, so declare and thereupon the Registrar shall”  
**Substitute**  
“in any of the cases provided in paragraphs (a), (b) and (c), so declare and the Registrar must then”.
- (12) Section 12(2)—  
**Repeal**  
“save as hereinbefore provided, the appeal shall”  
**Substitute**

- “except as provided in any of those paragraphs, the appeal must”.
- (13) After section 12(2)—  
**Add**  
“(3) If the dissolution of the trade union is registered by the Registrar under section 32(1) pending the determination of the appeal brought under subsection (1) or (2) or of any other proceedings to which the appeal relates, the appeal is, or the proceedings are, taken to be dismissed unless the court otherwise directs.”.

**15. Part III, Division 4, Part III, Division 5, heading and section 12D added**

After section 12—

**Add**

**“Division 4—Appointing Manager Pending Determination of Appeal**

**12A. Interpretation of Division 4 of Part III**

In this Division, a reference to the property of a trade union is a reference to all of the property of any description (including books and documents) belonging to the trade union or held by a trustee on behalf of the trade union.

**12B. Registrar may appoint manager pending determination of appeal**

- (1) Where an appeal in relation to a trade union is brought under section 12, if the Registrar is satisfied that it is in the general interests of the members of the trade union to appoint a manager to take over the management of the property of the trade union pending the determination of



- the appeal or any other proceedings to which the appeal relates (collectively referred to as *appeal proceedings*), the Registrar may, by written notice, appoint a person the Registrar considers appropriate to be a manager to take over the management of the property of the trade union.
- (2) The written notice—
    - (a) must specify—
      - (i) the name of the manager appointed; and
      - (ii) the address of that manager; and
    - (b) must be served on the trade union concerned.
  - (3) The appointment takes effect on the date on which the written notice is served on the trade union, and ceases to have effect on the earliest of the following—
    - (a) the date on which the trade union withdraws or discontinues the appeal proceedings;
    - (b) if any court finds that the Registrar is not entitled to cancel the registration of the trade union or that the cancellation of the registration of the trade union was wrong—the date on which the court so declares;
    - (c) if no appeal or review is made by any party against any other judgment or decision of the court in respect of the appeal proceedings before the expiry of the prescribed period for making such an appeal or review—the date on which the period expires;
    - (d) the date on which the court makes the final judgment or decision in respect of the appeal proceedings, and the judgment or decision is not appealable or reviewable;
    - (e) the date specified by the Registrar in the notice.

**12C. Powers of manager**

- (1) A manager appointed for a trade union under section 12B(1) may, during the period when the appointment has effect, do any or all of the following—
  - (a) take possession of the property of the trade union;
  - (b) for the purposes of paragraph (a), enter any premises occupied by the trade union or any branch of the trade union (*specified premises*);
  - (c) for the purposes of paragraph (a) or (b), take the proceedings that the manager considers appropriate;
  - (d) appoint a solicitor, an accountant or any other person the manager considers appropriate to assist the manager in the performance of the manager's functions;
  - (e) make an application to the District Court under section 49 on behalf of the trade union or the Registrar;
  - (f) convene a general meeting in accordance with the rules of the trade union;
  - (g) sell or otherwise dispose of the property of the trade union in accordance with subsection (5).
- (2) However, the manager may enter the specified premises (or any part of the specified premises) that are premises used for dwelling purposes only if a magistrate has issued a warrant under subsection (3).
- (3) If a magistrate is satisfied by information on oath by a manager that there are reasonable grounds to suspect that there is, or is likely to be, the property of the trade union on the specified premises (or any part of the specified premises) used for dwelling purposes, the magistrate may

- issue a warrant authorizing the manager to enter the premises.
- (4) Subject to subsection (5), a person must not sell or otherwise dispose of the property of a trade union when the appointment of a manager of the trade union has effect.
  - (5) The manager of a trade union may sell or otherwise dispose of the property of the trade union if the manager considers it reasonably necessary to do so and is authorized by secret ballot of a majority of the voting members present at a general meeting to do so.
  - (6) A sale or disposal of the property of a trade union in contravention of subsection (4) is to be regarded as invalid.
  - (7) To avoid doubt, despite subsection (4), a trade union may expend its funds in accordance with section 33 or the rules of the trade union when the appointment of a manager of the trade union has effect—
    - (a) for the proper functioning of the trade union; and
    - (b) for conducting the relevant appeal and any other proceedings to which the appeal relates.
  - (8) The exercise by a manager of a trade union of any of the powers conferred by this section is subject to the control of the Registrar, and any creditor or member of the trade union may apply to the Registrar in respect of any exercise or proposed exercise of any of those powers.
  - (9) Without limiting subsection (8), the Registrar may do any or all of the following—
    - (a) rescind or vary any order made by a manager or substitute a new order for it;

- (b) remove a manager from office and (if applicable) appoint another person to be a manager under section 12B(1);
  - (c) make an order upon the property of the trade union for the remuneration of a manager;
  - (d) call for and inspect the books, documents or other property of the trade union;
  - (e) by written order limit or restrict the powers of a manager;
  - (f) at any time require a manager to render accounts to the Registrar;
  - (g) refer any subject of dispute between a manager and any third party to arbitration, subject to the written consent of the third party;
  - (h) summon meetings of the members of the trade union.
- (10) A person who obstructs or prevents a manager from performing the functions of the manager commits an offence and is liable—
  - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine of \$200,000 and to imprisonment for 1 year.
- (11) It is a defence for a person charged with an offence under subsection (10) to establish that, at the time of the alleged offence, the person had a reasonable excuse for obstructing or preventing the manager from performing the functions of the manager.

### **Division 5—Effect of Registration and Cancellation of Registration, etc.**

#### **12D. Interpretation of Division 5 of Part III**

In this Division, a reference to the property of a trade union is a reference to all of the property of any description (including books and documents) belonging to the trade union or held by a trustee on behalf of the trade union.”.

#### **16. Section 14 amended (effect of cancellation of registration)**

##### **(1) Section 14(1)—**

###### **Repeal**

everything before “in addition to”

###### **Substitute**

“(1) For a trade union the registration of which has been cancelled under this Ordinance, when the cancellation of the registration has effect, the trade union must,”.

##### **(2) Section 14(1)(a)—**

###### **Repeal**

“notwithstanding anything contained in the rules of such trade union, forthwith”

###### **Substitute**

“despite anything contained in the rules of the trade union, immediately”.

##### **(3) Section 14(1)(a), English text—**

###### **Repeal**

“thereof”

###### **Substitute**

“of the trade union”.

##### **(4) Section 14(1)(b)—**

###### **Repeal**

“assets”

###### **Substitute**

“property”.

##### **(5) Section 14(1)(c)—**

###### **Repeal**

“forthwith be dissolved and no person shall, except for the purpose of defending proceedings against the trade union or of dissolving it and disposing of its funds in accordance with the rules thereof”

###### **Substitute**

“immediately be dissolved and a person must not, except for the purpose of defending proceedings against the trade union or of dissolving it and disposing of its funds in accordance with the rules of the trade union”.

##### **(6) Section 14(1)(c), after “Ordinance”—**

###### **Add**

“or of taking any other reasonable steps relating to the dissolution of the trade union”.

##### **(7) Section 14(1)(c), English text—**

###### **Repeal**

“officer thereof”

###### **Substitute**

“officer of the trade union”.

**17. Section 15 amended (power of liquidator and Registrar in winding up of affairs of a trade union)****(1) Section 15(1)—****Repeal**

everything after “section 14,” and before “appointment”

**Substitute**

“the property of the trade union must vest in the liquidator by the official name of the liquidator with effect from the date of the liquidator’s”.

**(2) Section 15(1)—****Repeal**

“as the Registrar may direct, may”

**Substitute**

“as the Registrar directs, may do any or all of the following”.

**(3) Section 15(1)(a), English text—****Repeal**

“his official name”

**Substitute**

“the official name of the liquidator”.

**(4) Section 15(1)—****Repeal paragraph (b)****Substitute**

“(b) take possession of the property of the trade union;”.

**(5) Section 15(1)(c)—****Repeal**

“by public auction or private contract, with power to transfer the whole thereof”

**Substitute**

“, with power to transfer all of them”.

**(6) Section 15(1)(d)—****Repeal**

“or agent to assist him in his”

**Substitute**

“, an accountant or any other person the liquidator considers appropriate to assist the liquidator in the liquidator’s”.

**(7) Section 15(1)(f)—****Repeal**

“thereof or any other debtor or person apprehending liability to the trade union and any questions in any way relating to or affecting the assets”

**Substitute**

“of the trade union or any other debtor or person apprehending liability to the trade union and any questions in any way relating to or affecting the property”.

**(8) Section 15(1)(f)—****Repeal**

“thereof;”

**Substitute**

“of such debt, liability or claim;”.

**(9) Section 15(1)(g)—****Repeal**

“whereby the trade union may be rendered liable; and”

**Substitute**

“by which the trade union may be rendered liable;”.

- (10) Section 15(1)(h)—  
**Repeal**  
 “assets” (wherever appearing)  
**Substitute**  
 “property”.
- (11) Section 15(2)—  
**Repeal**  
 “shall be”  
**Substitute**  
 “is”.
- (12) Section 15(2), Chinese text, after “事宜”—  
**Add a comma.**
- (13) Section 15(3)—  
**Repeal**  
 “prejudice to the generality of”  
**Substitute**  
 “limiting”.
- (14) Section 15(3), after “Registrar may”—  
**Add**  
 “do any or all of the following”.
- (15) Section 15(3)(a), English text—  
**Repeal**  
 “therefor a new order”  
**Substitute**  
 “a new order for it”.
- (16) Section 15(3)(c)—

- Repeal**  
 “assets”  
**Substitute**  
 “property”.
- (17) Section 15(3)(d)—  
**Repeal**  
 “assets of a trade union”  
**Substitute**  
 “other property of the trade union”.
- (18) Section 15(3)(f), English text—  
**Repeal**  
 “accounts to be rendered to him by a liquidator”  
**Substitute**  
 “a liquidator to render accounts to the Registrar”.
- (19) Section 15(3)(h), English text—  
**Repeal**  
 “may appear to him”  
**Substitute**  
 “appears to the Registrar”.
- (20) Section 15(3)(h), Chinese text—  
**Repeal**  
 “結束該”  
**Substitute**  
 “結束有關”.

**18. Section 16 amended (closure of liquidation on appointment of liquidator by Registrar)**

(1) Section 16—

**Repeal**

“notwithstanding”

**Substitute**

“despite”.

(2) Section 16(a)—

**Repeal**

“assets of what description soever belonging to the trade union shall be realized and converted into money and shall”

**Substitute**

“property of any description belonging to the trade union must be realized and converted into money and must”.

(3) Section 16(a), English text—

**Repeal**

“such manner as may be provided by the rules of the trade union or, failing provision therefor, in such manner as the Registrar may direct”

**Substitute**

“the manner as provided by the rules of the trade union or, if there is no such provision, in the manner the Registrar directs”.

(4) Section 16(b)—

**Repeal**

“thereof has not claimed or received what is due to him”

**Substitute**

“of the trade union has not claimed or received what is due to the creditor”.

(5) Section 16(b), English text—

**Repeal**

“shall be published”

**Substitute**

“must be published”.

(6) Section 16(b), English text—

**Repeal**

“union shall be”

**Substitute**

“union are”.

(7) Section 16(b), English text—

**Repeal**

“shall have”

**Substitute**

“have”.

(8) Section 16(c), English text—

**Repeal**

“shall”

**Substitute**

“is to”.

**19. Part IV, Division 1 heading added**

Before section 17—

**Add**

**“Division 1—Officers and Members”.****20. Section 17 amended (officers and members of trade unions)****(1) Section 17(1)—****Repeal**

“(1A), no person shall be a member of a registered trade union unless he”

**Substitute**

“(1AA) or (1A), a person must not be a member of a registered trade union unless the person”.

**(2) After section 17(1)—****Add**

“(1AA) A person who is not ordinarily resident in Hong Kong but is engaged or employed in Hong Kong in a trade, industry or occupation with which a registered trade union is directly concerned may also be a member of the trade union if the rules of the trade union allow such a person to be its member.”.

**(3) Section 17(1A), English text—****Repeal**

“his”

**Substitute**

“the person’s”.

**(4) Section 17(1A), English text—****Repeal**

“he” (wherever appearing)

**Substitute**

“the person”.

**(5) Section 17(1A), English text—****Repeal**

“thereof, but shall”

**Substitute**

“of the trade union, but must”.

**(6) Section 17(1B), English text—****Repeal**

“No person shall be refused membership of a trade union solely on the ground that he”

**Substitute**

“A person must not be refused membership of a trade union solely on the ground that the person”.

**(7) Section 17(2), English text—****Repeal**

“No person shall, without the consent in writing of the Registrar, be an officer of a registered trade union unless he”

**Substitute**

“A person must not, without the consent in writing of the Registrar, be an officer of a registered trade union unless the person”.

**(8) After section 17(2)—****Add**

“(2A) A person who has been convicted of any offence specified in Part 1 of Schedule 1 must not, from the date of the person’s conviction—

- (a) sign, as a voting member of a trade union, an application for registration of any trade union; or
- (b) be an officer of any registered trade union.”.

## (9) Section 17(3)—

**Repeal**

everything before “conviction”

**Substitute**

“(3) Except with the consent of the Chief Executive in Council, a person who has been convicted of any offence specified in Part 2 of Schedule 1 must not, within the period of 5 years from the date of the person’s”.

## (10) Section 17(3)—

**Repeal**

everything after “later”

**Substitute**

“—

- (a) sign, as a voting member of a trade union, an application for registration of any trade union; or
- (b) be an officer of any registered trade union.”.

## (11) After section 17(3)—

**Add**

“(3AA) To avoid doubt, if the conviction of a person under subsection (2A) or (3) is quashed on appeal, that subsection no longer applies to the person from the date on which the conviction is quashed.”.

## (12) Section 17(6)—

**Repeal**

everything after “section”

**Substitute**

“commits an offence and is liable on conviction on indictment to a fine at level 5 and to imprisonment for 3 years.”.

## (13) Section 17(6), Chinese text—

**Repeal**

“的規定”.

**21. Section 17AA added**

After section 17—

**Add****“17AA. Duty of officers of trade unions to notify specified charges and convictions**

- (1) An officer of a registered trade union who is charged with any offence specified in Schedule 1 must, as soon as reasonably practicable after the officer is charged with the offence, serve on the Registrar a written notice of the officer’s being charged with the offence, which must specify the nature of the offence.
- (2) An officer of a registered trade union who is convicted of any offence specified in Schedule 1 must, as soon as reasonably practicable after the officer is convicted of the offence, serve on the Registrar a written notice of the officer’s being convicted of the offence, which must specify the nature of the offence.
- (3) To avoid doubt, if the officer is convicted of any offence specified in Schedule 1, the officer must serve a written notice under subsection (2) even though the officer has served a written notice under subsection (1).”.

**22. Section 17A amended (powers of Registrar in respect of union elections and membership)**

## (1) Section 17A(1)—

**Repeal**



“The Registrar may, if he is of the opinion”

**Substitute**

“If the Registrar reasonably believes”.

(2) Section 17A(1)—

**Repeal**

“serve upon such officer, candidate or person, and upon the trade union, a notice in writing”

**Substitute**

“the Registrar may serve on such officer, candidate or person, and on the trade union, a written notice”.

(3) Section 17A(2)—

**Repeal**

everything before “the Court of First Instance may”

**Substitute**

“(2) If the officer, candidate or person fails to satisfy the Registrar that the officer, candidate or person has complied with the notice within 14 days beginning on the date on which the notice is served under subsection (1),”.

(4) Section 17A(2)(b)—

**Repeal the semicolon**

**Substitute**

“; and”.

(5) Section 17A(2)(c)—

**Repeal**

“such manner as the court may direct”

**Substitute**

“any manner the Court of First Instance directs”.

(6) After section 17A(2)—

**Add**

- “(3) If the Registrar reasonably believes that an officer of a registered trade union is charged with any offence specified in Schedule 1 but has contravened section 17AA(1), the Registrar may serve on the officer and the trade union a written notice requiring the officer to cease holding office until the proceedings relating to the offence have been concluded.
- (4) If the officer fails to satisfy the Registrar that the officer has complied with the notice within 14 days beginning on the date on which the notice is served under subsection (3), the Court of First Instance may, on the application of the Registrar, grant an injunction prohibiting the officer from holding office until the proceedings relating to the offence have been concluded.
- (5) In this section, a reference to proceedings does not include appeal or review proceedings.”.

**23. Section 17C and Part IV, Division 2 heading added**

Before section 18—

**Add**

**“17C. Members’ representatives**

- (1) The rules of a registered trade union may provide for elections in respect of members’ representatives of the trade union and matters for voting by members’ representatives of the trade union.
- (2) If the rules of a registered trade union provide that voting by members’ representatives of the trade union is allowed, then, in relation to the trade union and subject to the rules, a reference to “a majority of the voting members

present at a general meeting” in sections 12C, 23, 33B and 45 is to be construed as “a majority of the voting members present at a general meeting or a majority of members’ representatives present at a general meeting of the members’ representatives”.

### **Division 2—Rules”.**

#### **24. Section 18 amended (rules)**

##### **(1) Section 18(2)(a), English text—**

###### **Repeal**

“shall”

###### **Substitute**

“must”.

##### **(2) Section 18(2)(b)—**

###### **Repeal**

“he shall register such rules, but if he is not so satisfied he shall”

###### **Substitute**

“the Registrar must register such rules, but if the Registrar is not so satisfied the Registrar must”.

##### **(3) Section 18(4), English text—**

###### **Repeal**

“rules thereof”

###### **Substitute**

“rules”.

##### **(4) Section 18(4)—**

###### **Repeal**

“shall, within 30 days of the making thereof”

#### **Substitute**

“must, within 30 days beginning on the date on which the alteration, amendment or addition is made or the new rules are made”.

##### **(5) Section 18(5)—**

###### **Repeal**

“he shall register the altered or amended rule or the rule so added or the new rules, as the case may be, but if he is not so satisfied he shall”

###### **Substitute**

“the Registrar must register the altered or amended rule or the rule so added or the new rules (as the case may be), but if the Registrar is not so satisfied the Registrar must”.

##### **(6) Section 18(7)—**

###### **Repeal**

“shall be guilty of an offence and shall be liable on summary”

###### **Substitute**

“commits an offence and is liable on”.

##### **(7) Section 18(7), Chinese text—**

###### **Repeal**

“的規定”.

##### **(8) Section 18(8)—**

###### **Repeal**

“shall be guilty of an offence and shall be liable on summary”

###### **Substitute**

“commits an offence and is liable on”.

##### **(9) Section 18(8), Chinese text—**

###### **Repeal**

“的規定”。

**25. Section 18AA added**

After section 18—

**Add**

**“18AA. Transitional provisions in relation to section 18—Trade Unions (Amendment) Ordinance 2025**

- (1) For the purposes of section 18, Schedule 2 as in force immediately before the commencement date continues to apply in relation to a trade union registered before the commencement date as if the amendments to paragraph (h)(iic) of Schedule 2 made by the Amendment Ordinance had not been made, unless the trade union seeks the consent of the Chief Executive under section 45(1)(b)(i) for being or becoming a member of an organization established in an external place.

- (2) In this section—

*Amendment Ordinance* (《修訂條例》) means the Trade Unions (Amendment) Ordinance 2025 ( of 2025);

*commencement date* (生效日期) means the date on which the Amendment Ordinance comes into operation.”.

**26. Section 18A amended (refusal by Registrar to register rules under section 18)**

- (1) Section 18A(1)—

**Repeal**

“him”

**Substitute**

“the Registrar”.

- (2) Section 18A(1)—

**Repeal**

“he shall, upon”

**Substitute**

“, the Registrar must, on”.

- (3) Section 18A(1)—

**Repeal**

“shall specify in the notice the ground of his”

**Substitute**

“specify in the notice the ground for the”.

- (4) Section 18A(2)—

**Repeal**

“him”

**Substitute**

“the Registrar”.

- (5) Section 18A(2)—

**Repeal**

“he shall, upon”

**Substitute**

“, the Registrar must, on”.

- (6) Section 18A(2)—

**Repeal**

“shall specify in the notice the ground of his”

**Substitute**

“specify in the notice the ground for the”.

- (7) Section 18A(3)(a) and (b)—

**Repeal**

“him”

**Substitute**

“the Registrar”.

- (8) Section 18A(3)—

**Repeal**

“service”

**Substitute**

“the date of service”.

- (9) Section 18A(4)—

**Repeal**

“subsection, but unless the court so finds it shall”

**Substitute**

“section, but unless the court so finds it must”.

**27. Part IV, Division 3 heading added**

Before section 20—

**Add****“Division 3—Office and Seal”.****28. Section 20 amended (registered office)**

- (1) Section 20(2)—

**Repeal**

“therein, shall, within 2 weeks of the”

**Substitute**

“in the situation or in the postal address, must, within 14 days beginning on the date of”.

- (2) Section 20(2)—

**Repeal**

“shall be registered by him, and the trade union shall not be deemed to have”

**Substitute**

“must be registered by the Registrar, and the trade union is not to be regarded as having”.

- (3) Section 20(3)(a) and (b)—

**Repeal**

“; or”

**Substitute a semicolon.**

- (4) Section 20(3)(b), English text—

**Repeal**

“thereof”

**Substitute**

“of its registered office”.

- (5) Section 20(3)—

**Repeal**

“shall be guilty of an offence and shall be liable on summary”

**Substitute**

“commits an offence and is liable on”.

**29. Section 20A amended (seal)**

- (1) Section 20A(2), English text—

**Repeal**

“shall only”

**Substitute**

“may only”.

- (2) Section 20A(2), English text—

**Repeal**

“shall be affixed shall”

**Substitute**

“is to be affixed must”.

- (3) Section 20A(2), English text—

**Repeal**

“chairman”

**Substitute**

“chairperson”.

- (4) Section 20A(3)—

**Repeal**

“which fails to comply with subsection (1) shall be guilty of an offence and shall be liable on summary”

**Substitute**

“that fails to comply with subsection (1) commits an offence and is liable on”.

- (5) Section 20A(4), after “who”—

**Add**

“knowingly”.

- (6) Section 20A(4)—

**Repeal**

“shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1”

**Substitute**

“commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months”.

**30. Part IV, Division 4 heading added**

Before section 21—

**Add**

**“Division 4—Notification of Certain Information”.**

**31. Section 21 amended (branches and various undertakings of trade unions to be reported to the Registrar)**

- (1) Section 21, English text, heading—

**Repeal**

“reported”

**Substitute**

“notified”.

- (2) Section 21(1), English text—

**Repeal**

“shall be made to the Registrar in writing, together with such particulars as the Registrar may require”

**Substitute**

“must be made to the Registrar in writing, together with any particulars the Registrar requires”.

- (3) Section 21(1)—

**Repeal**

“the establishment”

**Substitute**

“the date of establishment”.

## (4) Section 21(2)—

**Repeal**

“shall report the fact to the Registrar in writing within 30 days thereafter”

**Substitute**

“must notify the Registrar of the fact in writing within 30 days after the date of cessation”.

## (5) Section 21(3)—

**Repeal**

“shall be guilty of an offence and shall be liable on summary”

**Substitute**

“commits an offence and is liable on”.

## (6) Section 21(3), Chinese text—

**Repeal**

“的規定”.

**32. Section 22 amended (notification of officers, etc.)**

## (1) Section 22(2)—

**Repeal**

“shall, within 14 days thereof”

**Substitute**

“must, within 14 days beginning on the date of the change”.

## (2) Section 22(3)—

**Repeal**

“such particulars as he may consider”

**Substitute**

“any particulars the Registrar considers”.

## (3) Section 22(3), English text—

**Repeal**

“shall furnish such”

**Substitute**

“must furnish those”.

## (4) Section 22(3)—

**Repeal**

“14 days of”

**Substitute**

“14 days beginning on”.

## (5) Section 22(4)—

**Repeal**

“therein”

**Substitute**

“in subsection (3)”.

## (6) Section 22(4)—

**Repeal**

“which the Registrar may have required under subsection (3) shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1”

**Substitute**

“that the Registrar has required under subsection (3) commits an offence and is liable on conviction to a fine at level 4”.

## (7) Section 22(4), Chinese text—

**Repeal**

“的規定”.

**33. Part IV, Division 5 heading added**

Before section 23—

**Add****“Division 5—Change of Name”.****34. Section 23 amended (change of name)**

(1) Section 23(1)—

**Repeal**

“its voting members present at a general meeting or of a majority of members’ representatives present at a general meeting where the rules of the trade union allow voting by members’ representatives”

**Substitute**

“the voting members present at a general meeting”.

(2) Section 23(2)—

**Repeal**

“shall be made to the Registrar within 14 days thereof”

**Substitute**

“must be made to the Registrar within 14 days beginning on the date on which the trade union has so agreed”.

(3) Section 23(3)(a)—

**Repeal**

everything after “name is”

**Substitute**

“such a name as is specified in section 7(1)(c); or”.

(4) Section 23(3), English text—

**Repeal**

“shall”

**Substitute**

“must”.

(5) Section 23(5)(a)—

**Repeal**

“subsection (3)(a);”

**Substitute**

“section 7(1)(c); or”.

(6) Section 23(5)—

**Repeal**

“after the refusal of the Registrar”

**Substitute**

“after the date on which the Registrar refuses”.

(7) Section 23(5)—

**Repeal**

“aforesaid, so declare and thereupon the Registrar shall”

**Substitute**

“in any of the cases provided in paragraphs (a) and (b), so declare and the Registrar must then”.

(8) Section 23(5)—

**Repeal**

“save as hereinbefore provided, the appeal shall”

**Substitute**

“except as provided in any of those paragraphs, the appeal must”.

(9) Section 23(8)—

**Repeal**

“which fails to comply with subsection (2) shall be guilty of an offence and shall be liable on summary”

**Substitute**

“that fails to comply with subsection (2) commits an offence and is liable on”.

**35. Part IVA heading added**

Before section 24—

**Add****“Part IVA****Amalgamation of Trade Unions”.****36. Section 25 amended (application for consent to amalgamation)**

(1) Section 25(1), English text—

**Repeal**

“shall be made to the Registrar for his consent”

**Substitute**

“must be made to the Registrar for the Registrar’s consent”.

(2) Section 25(2)—

**Repeal**

“shall be made in the prescribed form and shall be signed by the chairman”

**Substitute**

“must be made in the specified form and must be signed by the chairperson”.

(3) Section 25(2)—

**Repeal**

“shall be accompanied by 3 copies”

**Substitute**

“must be accompanied by a copy”.

**37. Section 27 amended (grounds for refusal to consent to amalgamation and procedure in such cases)**

(1) Before section 27(1)—

**Add**

“(1A) The Registrar may refuse to give consent to an intended amalgamation of registered trade unions if the Registrar reasonably believes that it is necessary for safeguarding national security to refuse to give consent to the intended amalgamation.”.

(2) Section 27(1)—

**Repeal**

“The Registrar may refuse to give his”

**Substitute**

“In addition, the Registrar may also refuse to give”.

(3) Section 27(1)(a), English text—

**Repeal**

“his consent”

**Substitute**

“the Registrar’s consent”.

(4) Section 27(1)(d)—

**Repeal**

everything after “known is”

**Substitute**



“such a name as is specified in section 7(1)(c).”.

- (5) Section 27(2)—

**Repeal**

“subsection (1) of this section or section 28(2), the Registrar refuses to give his”

**Substitute**

“subsection (1A) or (1), the Registrar refuses to give”.

- (6) Section 27(2)—

**Repeal**

“he shall, in writing, notify the trade unions of his refusal and shall specify therein”

**Substitute**

“the Registrar must issue to, and serve on, the trade unions a written notice and must specify in the notice”.

- (7) Section 27(2)—

**Repeal**

“for his refusal”

**Substitute**

“for the refusal”.

- (8) Section 27(3)—

**Repeal**

“Any”

**Substitute**

“If the Registrar refuses to give consent to an intended amalgamation of registered trade unions under subsection (1), any”.

- (9) Section 27(3)—

**Repeal**

“under subsection (1) to give his consent to an”

**Substitute**

“to give consent to the”.

- (10) Section 27(3), English text—

**Repeal**

“notice given”

**Substitute**

“notice issued”.

- (11) Section 27(3)(a), English text—

**Repeal**

“his consent”

**Substitute**

“the Registrar’s consent”.

- (12) Section 27(3)(c)—

**Repeal**

“unlawful;”

**Substitute**

“unlawful; or”.

- (13) Section 27(3)(d)—

**Repeal**

“subsection (1)(d)”

**Substitute**

“section 7(1)(c)”.

- (14) Section 27(3)—

**Repeal**

“Registrar has given such notice”

**Substitute**

“date on which the notice is served on the trade union”.

(15) Section 27(3)—

**Repeal**

“his consent to the intended amalgamation was wrong as aforesaid”

**Substitute**

“consent to the intended amalgamation was wrong as in any of the cases provided in paragraphs (a), (b), (c) and (d)”.

(16) Section 27(3)—

**Repeal**

“thereupon the Registrar shall, subject to the provisions of section 28, give his”

**Substitute**

“the Registrar must then give”.

(17) Section 27(3)—

**Repeal**

“save as hereinbefore provided, the appeal shall”

**Substitute**

“except as provided in any of those paragraphs, the appeal must”.

**38. Section 28 repealed (application for consent to be referred to Chief Executive in certain cases)**

Section 28—

**Repeal the section.**

**39. Section 29 amended (notice in writing to be given of consent to amalgamation, and saving of powers of Registrar in relation to registration of trade union formed by amalgamation)**

(1) Section 29(1), English text—

**Repeal**

“his”.

(2) Section 29(1)—

**Repeal**

“he shall send to each of the trade unions a notice in writing thereof and shall supply to each of the trade unions such additional copies of such notice as may be”

**Substitute**

“the Registrar must serve on each of the trade unions a written notice of that fact and must supply to each of the trade unions any additional copies of the notice that are”.

(3) Section 29(2), English text—

**Repeal**

“his”.

(4) Section 29(2), English text—

**Repeal**

“shall”

**Substitute**

“does”.

(5) Section 29(2)—

**Repeal**

“him” (wherever appearing)

**Substitute**

“the Registrar”.

- (6) Section 29(2), English text—

**Repeal**

“thereof”

**Substitute**

“of the trade union formed by the amalgamation”.

**40. Section 30 amended (procedure for amalgamation, etc.)**

- (1) Section 30(1), English text—

**Repeal**

“No registered trade unions shall”

**Substitute**

“Registered trade unions must not”.

- (2) Section 30(1)(a), English text—

**Repeal**

“of each of the trade unions party to the amalgamation and in every branch thereof”

**Substitute**

“, and in every branch, of each of the trade unions that are party to the amalgamation”.

- (3) Section 30(1)(a), Chinese text—

**Repeal**

“天”

**Substitute**

“日”.

- (4) Section 30(1)(b), English text—

**Repeal**

“such trade union, on a vote being taken in secret ballot, the votes of at least 50% of the voting members thereof”

**Substitute**

“of the trade unions, on a vote being taken in secret ballot, the votes of at least 50% of the voting members”.

**41. Section 31 amended (transfer of liabilities, etc. to trade union formed by amalgamation)**

After section 31(2)—

**Add**

“(3) To avoid doubt, even if a registered trade union has been authorized under section 45(1)(a), or has been authorized and has obtained the consent of the Chief Executive under section 45(1)(b), for being or becoming a member of an organization established in an external place before the trade union amalgamates with any other registered trade union, the authorization and consent do not apply in relation to the trade union formed by the amalgamation.”.

**42. Part IVB heading and section 31A added**

After section 31—

**Add**

**“Part IVB**

**Notification in respect of Dissolution**

**31A. Notification of passing resolution for dissolution**

- (1) A registered trade union that has passed a resolution for dissolution under the rules of the trade union must, within

14 days after the date of the passage, notify the Registrar in writing that the resolution has been passed.

- (2) A registered trade union that contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.”.

**43. Section 32 amended (notification of dissolution)**

- (1) Section 32(1), English text—

**Repeal**

“thereof” (wherever appearing)

**Substitute**

“of the trade union”.

- (2) Section 32(1)—

**Repeal**

“shall, within 14 days after the dissolution”

**Substitute**

“must, within 14 days after the date of dissolution”.

- (3) Section 32(1), English text—

**Repeal**

“upon the registration by the Registrar of such dissolution, the trade union shall”

**Substitute**

“on the registration by the Registrar of such dissolution, the trade union must”.

- (4) Section 32—

**Repeal subsection (2)**

**Substitute**

“(2) If subsection (1) is contravened, each of the following persons commits an offence and is liable on conviction to a fine at level 4—

- (a) the registered trade union;
- (b) every officer of the trade union;
- (c) if there is any other person bound by the rules of the trade union to issue or send the notice—every such person.”.

**44. Part V heading amended (funds, accounts and returns)**

Part V, heading—

**Repeal**

“and Returns”

**Substitute**

“, Returns and Records”.

**45. Part V, Division 1 heading added**

Before section 33—

**Add**

“**Division 1—Funds**”.

**46. Section 33 amended (application of funds)**

- (1) Section 33(1), English text—

**Repeal**

“rules thereof”

**Substitute**

“rules of the trade union”.

- (2) Section 33(1)(b), English text—

**Repeal**

“thereof”

**Substitute**

“of the trade union”.

- (3) Section 33(1)(c), English text—

**Repeal**

“thereof”

**Substitute**

“of the trade union”.

- (4) Section 33(1)(c), English text—

**Repeal**

“his”

**Substitute**

“the member’s”.

- (5) Section 33(1)(d), English text—

**Repeal**

“thereof”

**Substitute**

“of the trade union”.

- (6) Section 33(1)(j), English text—

**Repeal**

“therewith”

**Substitute**

“with such a trade union or organization”.

- (7) Section 33(2)—

**Repeal**

“shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1”

**Substitute**

“commits an offence and is liable on conviction on indictment to a fine at level 5”.

- (8) Section 33(2), Chinese text—

**Repeal**

“的規定” (wherever appearing).

**47. Section 33A amended (electoral fund)**

- (1) Section 33A(1)(a)—

**Repeal**

“for election to a District Council or the Legislative Council”

**Substitute**

“of a specified election for standing for the election”.

- (2) Section 33A(1)(b)—

**Repeal**

“for election to a District Council or the Legislative Council”

**Substitute**

“of a specified election to stand for the election”.

- (3) Section 33A(1)—

**Repeal paragraph (e)****Substitute**

“(c) expenses related to the registration of electors or voters of a specified election or the selection of a candidate of a specified election to stand for the election.”.

- (4) Section 33A(4)—

**Repeal**

“to a fine at level 1”

**Substitute**

“on conviction on indictment to a fine at level 5”.

- (5) Section 33A(4), Chinese text—

**Repeal**

“的規定”.

- (6) After section 33A(4)—

**Add**

“(5) In this section—

*specified election* (指明選舉) means an election set out in section 4(1)(a), (b), (c), (d), (da), (e) or (f) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).”.

**48. Section 33B amended (electoral expenses resolution)**

- (1) Section 33B(1)—

**Repeal**

“its voting members present at a general meeting or of a majority of members’ representatives present at a general meeting where the rules of the trade union allow voting by members’ representative”

**Substitute**

“the voting members present at a general meeting”.

- (2) Section 33B(2), Chinese text—

**Repeal**

“必”.

**49. Section 34A and Part V, Division 2 heading added**

After section 34—

**Add****“34A. Restrictions on receiving contributions or donations from external force**

- (1) If an officer of a registered trade union knows or has reason to believe that any external force will make contributions or donations to the trade union, the trade union—
  - (a) must make an application to the Registrar in the specified form before receiving the contributions or donations; and
  - (b) must decline to receive the contributions or donations until the Registrar has approved the application.
- (2) If any external force makes contributions or donations to a registered trade union without the prior knowledge of any of the officers of the trade union, the trade union—
  - (a) must make an application to the Registrar in the specified form within 14 days after any of its officers becomes aware of the fact that the trade union has received the contributions or donations; and
  - (b) must not expend the contributions or donations until the Registrar has approved the application.
- (3) The application under subsection (1)(a) or (2)(a) must set out—
  - (a) the particulars of the external force that makes the contributions or donations;

- (b) the purposes for which the trade union intends to expend the contributions or donations; and
- (c) any other information required by the specified form.
- (4) If—
  - (a) the external force makes contributions or donations to the trade union even though the Registrar rejected the application under subsection (1)(a); or
  - (b) the Registrar rejects the application under subsection (2)(a),
 the trade union must, as soon as practicable, return the relevant contributions or donations to the external force.
- (5) If the Registrar approves an application under subsection (1)(a) or (2)(a), the trade union may only expend the contributions or donations for the purposes approved by the Registrar.
- (6) The trade union may make an application in writing to the Registrar for altering the purposes mentioned in subsection (5).
- (7) However, the Registrar must not approve—
  - (a) a transfer of the contributions or donations to the electoral fund established under section 33A; or
  - (b) the use of the contributions or donations to pay for the expenses referred to in section 33A(1) under section 33B.
- (8) A registered trade union that contravenes subsection (1) or (2) commits an offence.
- (9) A registered trade union that contravenes subsection (4) or (5) commits an offence.

- (10) A registered trade union that commits an offence under subsection (8) or (9) is liable—
  - (a) on summary conviction—to a fine at level 6; or
  - (b) on conviction on indictment—to a fine of \$200,000.
- (11) It is a defence for a person charged with an offence under subsection (8) to establish that, at the time of the alleged offence, the person had a reasonable excuse for contravening subsection (1) or (2) (as the case may be).
- (12) To avoid doubt—
  - (a) this section does not apply in relation to the contributions or donations received by a registered trade union before the commencement date; and
  - (b) if any purpose mentioned in subsection (3)(b) is one that is mentioned in section 33(1)(j) or (l), the trade union must make an application to the Chief Executive under that section even though it has made an application to the Registrar.
- (13) In this section—
 

*commencement date* (生效日期) means the date on which the Trade Unions (Amendment) Ordinance 2025 ( of 2025) comes into operation.

## Division 2—Accounts and Returns”.

### 50. Section 35 amended (treasurer to render accounts to members)

- (1) Section 35, heading—
 

**Repeal**

“Treasurer”

**Substitute**

“Specified officers”.

- (2) Section 35(1)—

**Repeal**

“The treasurer of a registered trade union and every other officer thereof who is responsible for the accounts of the trade union or for collection, disbursement, custody or control of the funds or moneys thereof shall, upon resigning or vacating his”

**Substitute**

“Every specified officer of a registered trade union must, on resigning or vacating the officer’s”.

- (3) Section 35(1), English text—

**Repeal**

“such time as may be specified in the rules of the trade union and at any other times at which he may be required to do so by a resolution of the voting members of the trade union or by the rules thereof”

**Substitute**

“the time specified in the rules of the trade union and at any other times at which the specified officer is required to do so by resolution of the voting members of the trade union or by the rules of the trade union”.

- (4) Section 35(1)—

**Repeal**

“him during the period that has elapsed since his assuming”

**Substitute**

“the specified officer during the period that has elapsed since the specified officer assumed”.

- (5) Section 35(1)—

**Repeal**

“he has previously rendered an account, since the last date upon which he rendered such account, and of the balance remaining in his custody”

**Substitute**

“the specified officer has previously rendered an account, since the last date on which the specified officer rendered such account, and of the balance remaining in the custody of the specified officer”.

- (6) Section 35(1)—

**Repeal**

“his custody or under his control”

**Substitute**

“the custody of, or under the control of, the specified officer”.

- (7) Section 35—

**Repeal subsection (2).**

- (8) Section 35(4)—

**Repeal**

“the treasurer or other officer referred to in subsection (1) shall, if he is resigning or vacating his”

**Substitute**

“a specified officer must, if the specified officer is resigning or vacating the officer’s”.

- (9) Section 35(4)—

**Repeal**

“thereof, as the case may be, hand over to the trade union such balance as appears to be due from him”

**Substitute**



“of the trade union (as the case may be), hand over to the trade union such balance as appears to be due from the specified officer”.

(10) Section 35(4)—

**Repeal**

“papers and property of the trade union in his custody or otherwise under his control”

**Substitute**

“documents and property of the trade union in the custody of, or otherwise under the control of, the specified officer”.

(11) Section 35(5)—

**Repeal**

“the treasurer or other officer referred to in subsection (1)”

**Substitute**

“a specified officer”.

(12) Section 35(5)—

**Repeal**

“thereof may sue him”

**Substitute**

“of the trade union may sue the specified officer”.

(13) Section 35(5)—

**Repeal**

“him upon the account last rendered by him and for all moneys since received by him”

**Substitute**

“the specified officer on the account last rendered by the specified officer and for all moneys since received by the specified officer”.

(14) Section 35(5)—

**Repeal**

“securities and effects, books, papers and property in his custody, leaving him to set off in such action the sums, if any, that he may have since paid on account of the trade union, and in any such action the plaintiff shall be”

**Substitute**

“bonds, securities, effects, books, documents and property in the custody of the specified officer, leaving the specified officer to set off in such action the sums, if any, that the specified officer may have since paid on account of the trade union, and in any such action the plaintiff is”.

(15) After section 35(5)—

**Add**

“(6) In this section—

*specified officer* (指明職員), in relation to a registered trade union, means—

- (a) the treasurer of the trade union;
- (b) any other officer who is responsible for the accounts of the trade union; or
- (c) any other officer who is responsible for the collection, disbursement, custody or control of the funds or moneys of the trade union.”.

**51. Section 36 amended (annual statement of account and returns to be rendered to Registrar)**

(1) Section 36, heading—

**Repeal**

“Annual statement”

**Substitute****“Statements”.**

- (2) Section 36(1), English text—

**Repeal**

“shall furnish”

**Substitute**

“must furnish”.

- (3) Section 36(1), English text—

**Repeal**

“of the trade union as specified in the rules thereof or within such further period as the Registrar may on application in writing grant”

**Substitute**

“as specified in the rules of the trade union (or within any further period that the Registrar may grant on written application)”.

- (4) Section 36(1), English text, after “expenditures”—

**Add**

“of the trade union”.

- (5) Section 36(1)—

**Repeal**

everything after “union.”.

- (6) After section 36(1)—

**Add**

“(1A) After receiving contributions or donations made by an external force as provided in section 34A, a registered trade union must furnish annually to the Registrar, not more than 3 months after the termination of each financial

year as specified in the rules of the trade union (or within any further period that the Registrar may grant on written application), a statement of account, audited by an auditor approved by the Registrar, that contains all receipts and expenditures of the trade union in connection with the contributions or donations during that financial year.

- (1B) However, if the contributions or donations mentioned in subsection (1A) have been wholly expended during any financial year as specified in the rules of the trade union, then, starting from the financial year immediately following that financial year, the trade union is no longer required to furnish a statement of account referred to in that subsection.

- (1C) A statement of account referred to in subsections (1) and (1A)—

- (a) must be prepared in the specified form;
- (b) must contain the specified particulars; and
- (c) must be accompanied by a report of the auditor who audits the statement of account.”.

- (7) Section 36(2), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (8) Section 36(2)—

**Repeal**

“, or within such further period as the Registrar may on application in writing grant, a return in the form prescribed”

**Substitute**

“(or within any further period that the Registrar may grant on written application) a return prepared in the specified form”.

- (9) Section 36(2), English text—

**Repeal**

“thereof”

**Substitute**

“of the trade union”.

- (10) Section 36(2)—

**Repeal**

“such other particulars as may be prescribed”

**Substitute**

“any other specified particulars”.

- (11) Section 36(3), English text—

**Repeal**

“shall be”

**Substitute**

“is”.

- (12) Section 36(3)—

**Repeal**

“(1)”

**Substitute**

“(1) or (1A)”.

- (13) Section 36(3), English text—

**Repeal**

“thereof specified in the rules of the trade union shall”

**Substitute**

“specified in the rules of the trade union must”.

- (14) Section 36(3), English text—

**Repeal**

“him therefor”

**Substitute**

“the secretary or officer”.

- (15) Section 36(4)—

**Repeal**

“(1)”

**Substitute**

“(1), (1A), (1C)”.

- (16) Section 36(4)—

**Repeal**

“shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1”

**Substitute**

“commits an offence and is liable on conviction to a fine at level 4”.

**52. Part V, Division 3 heading and section 36A added**

Before section 37—

**Add**

**“Division 3—Records****36A. Duty to keep records**

- (1) A registered trade union must keep the following records and documents until the expiry of the period specified in subsection (2)—
  - (a) (subject to paragraph (b)) an account book containing the record of each transaction carried out by the trade union, and the verifying documents for the records of transactions;
  - (b) if the trade union has received contributions or donations made by an external force and the contributions or donations have not been wholly expended—another account book containing the record of each transaction in connection with the contributions or donations, and the verifying documents for the records of transactions;
  - (c) a register of members containing the following information in respect of each member of the trade union—
    - (i) the name and occupation of the member;
    - (ii) how the member satisfies the requirements for being a member of the trade union under section 17 and the rules of the trade union;
    - (iii) the type of membership to which the member belongs under the rules of the trade union;
    - (iv) whether the member has paid subscriptions, fees and contributions in accordance with the rules of the trade union; and
    - (v) the date on which the member ceases to be a member of the trade union (if applicable);

- (d) the minutes of the general meetings of the trade union and of the meetings of the executive of the trade union; and
- (e) the records of resolutions passed by the officers of the trade union without a meeting.
- (2) The period is—
  - (a) in relation to the records or documents mentioned in subsection (1)(a) or (b)—2 years after the date on which the financial year (as specified in the rules of the trade union) to which the records or documents relate terminates;
  - (b) in relation to the information mentioned in subsection (1)(c)—2 years after the date on which the member ceases to be a member of the trade union;
  - (c) in relation to the minutes mentioned in subsection (1)(d)—2 years after the date on which the meeting is held; and
  - (d) in relation to the resolutions mentioned in subsection (1)(e)—2 years after the date on which the resolution is passed.
- (3) A registered trade union that contravenes subsection (1)(a), (c), (d) or (e) commits an offence and is liable on conviction to a fine at level 4.
- (4) A registered trade union that contravenes subsection (1)(b) commits an offence and is liable on conviction to a fine at level 5.
- (5) In this section—  
*verifying document* (核實文件), in relation to a record of transaction, means a voucher, bank statement, invoice,

receipt or any other document that is necessary to verify the record of transaction.”.

**53. Section 37 amended (inspection of accounts)**

- (1) Section 37, heading—

**Repeal**

“accounts”

**Substitute**

“records”.

- (2) Section 37(1), English text—

**Repeal**

“of a registered trade union and the register of the members thereof shall”

**Substitute**

“and the register of members of a registered trade union must”.

- (3) Section 37(1)—

**Repeal**

everything after “agent”

**Substitute**

“of the trade union at the time and place specified in the rules of the trade union.”.

- (4) Section 37—

**Repeal subsection (2)**

**Substitute**

- “(2) For the purposes of subsection (1), a registered trade union may, in accordance with the rules of the trade union and subject to any other enactment, determine the information that is to be contained in the register of

members made available for inspection under that subsection.”.

**54. Section 38 repealed (power to require detailed accounts)**

Section 38—

**Repeal the section.**

**55. Section 38A added**

At the end of Part V—

**Add**

**“38A. Transitional provisions in relation to section 36A—Trade Unions (Amendment) Ordinance 2025**

- (1) Section 36A(1)(a) does not apply in relation to a transaction that is carried out before the commencement date.
- (2) Section 36A(1)(b) does not apply in relation to a contribution or donation that is received before the commencement date.
- (3) Section 36A(1)(c)—
  - (a) does not apply in relation to a person who has ceased to be a member of the trade union concerned before the commencement date; and
  - (b) does not apply, within 1 year beginning on the commencement date, in relation to a person who is a member of the trade union as at the commencement date.
- (4) Section 36A(1)(d) and (e) does not apply in relation to a meeting that is held, or a resolution that is passed, before the commencement date.
- (5) In this section—

*commencement date* (生效日期) means the date on which the Trade Unions (Amendment) Ordinance 2025 ( of 2025) comes into operation.”.

**56. Section 42 amended (immunity from civil suit in certain cases)**

- (1) Section 42, Chinese text, heading—

**Repeal**

“若干”

**Substitute**

“某些”.

- (2) Section 42, English text—

**Repeal**

“shall”

**Substitute**

“may”.

- (3) Section 42, English text—

**Repeal**

“his capital or of his labour as he”

**Substitute**

“that other person’s capital or of that other person’s labour as that other person”.

**57. Section 43A amended (protection from civil suit for acts done in contemplation or furtherance of trade dispute)**

- (1) Section 43A(1), English text—

**Repeal**

“shall”

**Substitute**

“may”.

- (2) Section 43A(1), English text—

**Repeal**

“his capital or of his labour as he”

**Substitute**

“that other person’s capital or of that other person’s labour as that other person”.

**58. Part VIA heading and section 44A added**

After section 44—

**Add**

**“Part VIA**

**Restrictions on Affiliation with Organizations in External Places**

**44A. Interpretation of Part VIA**

- (1) In this Part—

*office-bearer* (幹事), in relation to an organization, means the president, vice-president, secretary or treasurer of the organization, or a member of the committee or governing body of the organization, or a person who holds in the organization an office or position analogous to any of those mentioned above;

*relevant professional organization* (有關專業組織), in relation to a registered trade union, means an organization the objects of which are to promote the interests of persons engaged or employed in a trade, industry or occupation that is the same as, or similar to, the trade,

industry or occupation with which the trade union is directly concerned.

- (2) In this Part, a reference to an organization of workers, an organization of employers or a relevant professional organization includes a federation of organizations of that particular type.”.

**59. Section 45 amended (affiliation with organizations in foreign countries)**

- (1) Section 45, heading—

**Repeal**

“Affiliation with organizations in foreign countries”

**Substitute**

“Restrictions on registered trade unions being or becoming members of organizations in external places”.

- (2) Section 45—

**Repeal subsection (1)**

**Substitute**

- “(1) A registered trade union must not be or become a member of an organization established in an external place unless—

- (a) if the organization is an organization of workers, an organization of employers or a relevant professional organization, that is established in a foreign country—the trade union is authorized to be or become a member of the organization by secret ballot of a majority of the voting members present at a general meeting; or
- (b) if the organization is any other organization established in an external place—

- (i) the trade union has obtained the consent of the Chief Executive; and
- (ii) the trade union is authorized to be or become a member of the organization by secret ballot of a majority of the voting members present at a general meeting.”.

- (3) Section 45(2), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (4) Section 45(2)—

**Repeal**

“subsection (1)”

**Substitute**

“subsection (1)(a)”.

- (5) Section 45—

**Repeal subsection (3).**

- (6) Section 45(4)—

**Repeal**

“subsection (3)(a)”

**Substitute**

“subsection (1)(b)(i)”.

- (7) Section 45(5)—

**Repeal**

“a foreign country as provided in subsection (1) or (3), it shall not be”

**Substitute**

“an external place as provided in subsection (1), it is not”.

- (8) Section 45(6)(a)—

**Repeal**

“subsection (1)”

**Substitute**

“subsection (1)(a)”.

- (9) Section 45(6)(a)—

**Repeal**

“or employers,”

**Substitute**

“, an organization of employers”.

- (10) Section 45(6)(b)—

**Repeal**

“subsection (3) shall”

**Substitute**

“subsection (1)(b) is to”.

- (11) Section 45(6)(b)—

**Repeal**

“a foreign country”

**Substitute**

“an external place”.

- (12) After section 45(6)—

**Add**

“(6A) If the Registrar reasonably believes that a registered trade union contravenes subsection (1), the Registrar may serve

on the trade union a written notice requiring the trade union to cease to be a member of the organization established in an external place within 14 days beginning on the date of service of the notice.”.

- (13) Section 45(7)—

**Repeal**

“or (3) commits an offence and is liable”

**Substitute**

“commits an offence and is liable on conviction”.

- (14) After section 45(7)—

**Add**

“(7A) A registered trade union that fails to comply with a notice served under subsection (6A) commits an offence and is liable—

- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
- (b) on conviction on indictment—to a fine of \$200,000 and to imprisonment for 1 year.

(7B) It is a defence for a person charged with an offence under subsection (7A) to establish that, at the time of the alleged offence, the person had a reasonable excuse for failing to comply with the notice.”.

- (15) Section 45(8)—

**Repeal**

“a foreign country and”

**Substitute**

“an external place and”.

- (16) Section 45(8), English text—



**Repeal**

“shall be”

**Substitute**

“is”.

(17) Section 45(8)—

**Repeal**

“a foreign country shall in the absence of evidence to the contrary be”

**Substitute**

“an external place is, in the absence of evidence to the contrary,”.

(18) Section 45—

**Repeal subsection (9).****60. Section 45AA added**

After section 45—

**Add****“45AA. Restrictions on officers of registered trade unions being office-bearers of organizations in external places**

- (1) An officer of a registered trade union must not be an office-bearer of an organization established in an external place unless—
- (a) the trade union is or becomes a member of the organization as provided in section 45(1)(a) or (b); or
  - (b) the trade union is not a member of the organization, which is not a political organization or body, and the

officer has obtained the consent of the Chief Executive.

- (2) The officer must, within 1 month after beginning to be an office-bearer of the organization as provided in subsection (1)(a), notify the Registrar in writing of the fact.
- (3) Any consent given under subsection (1)(b) may be withdrawn at the discretion of the Chief Executive.
- (4) If the Registrar reasonably believes that an officer of a registered trade union contravenes subsection (1), the Registrar may serve on the officer and the trade union a written notice requiring the officer to cease holding office in the trade union within 14 days beginning on the date of service of the notice.
- (5) If the officer fails to satisfy the Registrar that the officer has complied with a notice served under subsection (4) within 14 days beginning on the date of service of the notice, the Court of First Instance may, on the application of the Registrar—
  - (a) grant an injunction prohibiting the officer from holding office in the trade union;
  - (b) make a declaration that the officer no longer holds office in the trade union; and
  - (c) make an order directing the trade union to hold, in any manner the Court of First Instance directs, a fresh election if an officer has ceased to hold office in the trade union by virtue of this section.
- (6) An officer who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 1.
- (7) An officer who fails to comply with a notice served under subsection (4) commits an offence and is liable—

- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
- (b) on conviction on indictment—to a fine of \$200,000 and to imprisonment for 1 year.
- (8) It is a defence for an officer charged with an offence under subsection (7) to establish that, at the time of the alleged offence, the officer had a reasonable excuse for failing to comply with the notice.”.

**61. Section 45B added**

Part VIA, after section 45A—

**Add****“45B. Transitional provisions in relation to section 45AA—Trade Unions (Amendment) Ordinance 2025**

- (1) If, on the commencement date, an officer of a registered trade union is an office-bearer of the organization mentioned in section 45AA(1)(a) as provided in that section, then, in relation to the officer, the reference in section 45AA(2) to “within 1 month after beginning to be an office-bearer of the organization as provided in subsection (1)(a)” is to be construed as “within 1 month after the commencement date”.
- (2) Subsection (3) or (4) applies to an officer of a registered trade union if—
  - (a) the officer is an office-bearer of an organization established in an external place on the commencement date;
  - (b) the trade union is not a member of the organization; and

- (c) the organization is not a political organization or body.
- (3) If—
  - (a) the organization concerned is an organization of workers, an organization of employers or a relevant professional organization, that is established in a foreign country;
  - (b) within 2 months after the commencement date, the trade union becomes a member of the organization as provided in section 45(1)(a); and
  - (c) within 2 months after the commencement date, the officer notifies the Registrar in writing of the fact that the officer is an office-bearer of the organization,

section 45AA does not apply to the officer within those 2 months to the extent that the officer is an office-bearer of that organization.

- (4) If, within 2 months after the commencement date, the officer seeks the consent of the Chief Executive for the officer to be an office-bearer of the organization concerned as provided in section 45AA(1)(b), section 45AA does not apply to the officer to the extent that the officer is an office-bearer of that organization until the Chief Executive has decided on whether or not to give consent.

- (5) In this section—

**commencement date** (生效日期) means the date on which the Trade Unions (Amendment) Ordinance 2025 ( of 2025) comes into operation.”.

**62. Section 46 amended (peaceful picketing)**

## (1) Section 46—

**Repeal**

“Notwithstanding anything in this Ordinance, it shall be lawful for one or more persons”

**Substitute**

“Despite anything in this Ordinance, it is lawful for one or more persons (*persons*)”.

## (2) Section 46, proviso—

**Repeal**

“shall not be lawful if they”

**Substitute**

“is not lawful if the persons”.

## (3) Section 46, English text, proviso—

**Repeal**

“thereto or egress therefrom”

**Substitute**

“to, or egress from, that place”.

## (4) Section 46, proviso—

**Repeal**

everything after “proviso”

**Substitute**

“commits an offence and is liable—

- (a) on summary conviction—to a fine at level 4 and to imprisonment for 2 years; or
- (b) on conviction on indictment—to a fine at level 6 and to imprisonment for 5 years.”.

**63. Section 47 amended (intimidation and annoyance)**

## (1) Section 47(1)(a)—

**Repeal**

“his wife or children, or injures his”

**Substitute**

“that other person’s spouse or children, or injures that other person’s”.

## (2) Section 47(1)(a) and (b)—

**Repeal**

“; or”

**Substitute a semicolon.**

## (3) Section 47(1)(c), English text—

**Repeal**

“him” (wherever appearing)

**Substitute**

“that other person”.

## (4) Section 47(1)(c)—

**Repeal**

“thereof; or”

**Substitute**

“of the same;”.

## (5) Section 47(1)—

**Repeal**

“shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 6 months”

**Substitute**

“commits an offence”.

- (6) After section 47(1)—

**Add**

“(1A) A person who commits an offence under subsection (1) is liable—

- (a) on summary conviction—to a fine at level 4 and to imprisonment for 2 years; or
- (b) on conviction on indictment—to a fine at level 6 and to imprisonment for 5 years.”.

**64. Section 49 amended (punishment for withholding money or property of a registered trade union)**

- (1) Section 49(1), English text—

**Repeal**

“himself”

**Substitute**

“that other person”.

- (2) Section 49(1), English text—

**Repeal**

“thereof or any person whatsoever”

**Substitute**

“of the trade union or a person of any description”.

- (3) Section 49(1), English text—

**Repeal**

“papers or other effects of such trade union, or having the same in his possession”

**Substitute**

“documents or other effects of such trade union, or having the same in the possession of such officer, member or other person”.

- (4) Section 49(1), English text—

**Repeal**

“upon”

**Substitute**

“on”.

- (5) Section 49(1), English text—

**Repeal**

“papers, or”

**Substitute**

“documents, or”.

- (6) Section 49(1), English text—

**Repeal**

“thinks fit”

**Substitute**

“considers appropriate”.

- (7) Section 49(1)—

**Repeal**

“\$200”

**Substitute**

“\$25,000”.

- (8) Section 49(1), English text—

**Repeal**

“aforesaid, the said court may order such officer, member or person”

**Substitute**

“, the court may order such officer, member or other person”.

- (9) Section 49(1), English text, proviso—

**Repeal**

“shall prevent”

**Substitute**

“prevents”.

**65. Section 50 amended (circulating false copies of rules, etc.)**

- (1) Section 50—

**Renumber the section as section 50(1).**

- (2) Section 50(1)(a)—

**Repeal**

“; or”

**Substitute a semicolon.**

- (3) Section 50(1)—

**Repeal**

“shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 3 months”

**Substitute**

“commits an offence”.

- (4) After section 50(1)—

**Add**

- “(2) A person who commits an offence under subsection (1) is liable—

- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
- (b) on conviction on indictment—to a fine of \$200,000 and to imprisonment for 1 year.”.

**66. Section 50A added**

After section 50—

**Add****“50A. Furnishing false or misleading information**

- (1) A person commits an offence if the person, knowing or having reason to believe that any document or information is false or misleading in a material particular—
  - (a) furnishes under this Ordinance the document or information to the Registrar or any person authorized by the Registrar, whether in writing, orally or otherwise; or
  - (b) causes or procures the document or information to be furnished under this Ordinance to the Registrar or any person authorized by the Registrar.
- (2) A person commits an offence if the person signs any document or information furnished under this Ordinance to the Registrar or any person authorized by the Registrar, knowing or having reason to believe that the document or information contains any statement that is false or misleading in a material particular.
- (3) A person who commits an offence under subsection (1) or (2) is liable—
  - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or

- (b) on conviction on indictment—to a fine of \$200,000 and to imprisonment for 1 year.”.

**67. Part VIIIA added**

Before section 52—

**Add**

**“Part VIIIA**

**Enforcement Powers**

**51A. Interpretation of Part VIIIA**

In this Part—

*authorized officer* (獲授權人員) means a public officer authorized under section 51B(1).

**51B. Authorizing officers and appointing persons**

- (1) The Registrar may authorize in writing a public officer as an authorized officer for the purposes of this Part.
- (2) The Registrar may appoint a solicitor, an accountant or any other person the Registrar considers appropriate to assist the Registrar in performing the functions under section 51C.

**51C. Powers to conduct inquiries**

- (1) The Registrar or an authorized officer may inquire about a registered trade union for performing the functions of the Registrar under this Ordinance.
- (2) For conducting an inquiry under subsection (1), the Registrar or the authorized officer may require the trade union, an officer of the trade union or a specified person—

- (a) to produce, within the period and at the place the Registrar or the authorized officer requires in writing, any document or information that is reasonably necessary for the Registrar or the authorized officer to conduct inquiry;
  - (b) to give an explanation or further particulars in respect of a document or information produced;
  - (c) to attend before the Registrar or the authorized officer at the time and place the Registrar or the authorized officer requires in writing, and answer a question relating to any matter for the inquiry that may be raised by the Registrar or the authorized officer; and
  - (d) to answer in writing, within the period the Registrar or the authorized officer requires in writing, a written question relating to any matter for the inquiry that may be raised by the Registrar or the authorized officer.
- (3) The Registrar or an authorized officer may, on application made to the Registrar or the authorized officer and on good reason being shown—
- (a) grant an extension of the period under subsection (2)(a) or (d); or
  - (b) vary the time under subsection (2)(c), at the Registrar’s or the authorized officer’s discretion.
- (4) A person who fails to comply with a requirement imposed on the person under subsection (2) commits an offence and is liable—
- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or

- (b) on conviction on indictment—to a fine of \$200,000 and to imprisonment for 1 year.
- (5) It is a defence for a person charged with an offence under subsection (4) to establish that, at the time of the alleged offence, the person exercised due diligence and failed to comply with the requirement for reasons beyond the person's control.
- (6) However, a person is not excused from complying with a requirement imposed on the person under subsection (2) only on the ground that to do so might tend to incriminate the person.
- (7) In this section—  
*specified person* (指明人士) means a person whom the Registrar or an authorized officer reasonably believes to have any document or information relating to an inquiry in that person's possession, control or custody.

**51D. Powers to require verification of explanation, etc. by statutory declaration**

- (1) If a person gives any explanation, particulars or answer in compliance with a requirement imposed under section 51C(2), the Registrar or the authorized officer may, in writing, require the person to verify, within the time specified in the requirement, the explanation, particulars or answer by a statutory declaration.
- (2) If a person does not give any explanation, particulars or answer in compliance with a requirement imposed under section 51C(2) for the reason that the document or information concerned was not within the person's knowledge, possession, control or custody, the Registrar or the authorized officer may, in writing, require the person to verify, within the time specified in the

requirement, by a statutory declaration, that the person did not comply with the requirement for that reason.

- (3) A statutory declaration under subsection (1) or (2) may be made before the Registrar or the authorized officer and, for that purpose, the Registrar or the authorized officer is to have full power to administer the statutory declaration.

**51E. Use of incriminating evidence in proceedings**

- (1) If the Registrar or an authorized officer requires a person to give an answer to a question or to give an explanation or further particulars under this Part, the Registrar or the authorized officer must ensure that the person has first been informed of the effect of subsection (2).
- (2) Despite anything in this Ordinance and subject to subsection (3), if—
  - (a) the Registrar or an authorized officer requires a person to give an answer to a question or to give an explanation or further particulars under this Part; and
  - (b) the answer, explanation or particulars might tend to incriminate the person and the person so claims before giving the answer, explanation or particulars, the requirement and the question and answer, or the explanation or particulars, are not admissible in evidence against the person in criminal proceedings in a court of law.
- (3) Subsection (2) does not apply to criminal proceedings in which the person is, in relation to the answer, or the explanation or further particulars, charged with—

- (a) an offence under section 50A(1) or (2), 51C(4), 51G(3) or 51H(3) or under Part V of the Crimes Ordinance (Cap. 200); or
- (b) perjury.

**51F. Offences in relation to destruction of documents and information**

- (1) A person commits an offence if—
  - (a) the person destroys, falsifies, conceals or otherwise disposes of, or causes or permits the destruction, falsification, concealment or disposal of, a document or information that the person is required by the Registrar or an authorized officer to produce under this Part; and
  - (b) the person does so with intent to conceal, from the Registrar or the authorized officer, facts or matters capable of being disclosed by the document or information.
- (2) A person who commits an offence under subsection (1) is liable—
  - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine of \$200,000 and to imprisonment for 1 year.

**51G. Powers to enter premises of trade unions**

- (1) For performing the functions of the Registrar under this Ordinance, the Registrar or an authorized officer may, at any reasonable time, enter any non-domestic premises occupied by a registered trade union or any branch of the trade union.

- (2) After entering the premises under subsection (1), the Registrar or an authorized officer—
  - (a) may inspect the record or document kept under section 36A(1) or any other document or information that is necessary for ascertaining whether the requirements of this Ordinance or of the rules of the trade union are complied with;
  - (b) may make copies of the record, document or information;
  - (c) may make any examination or ask any question that is necessary to ascertain whether the requirements of this Ordinance or of the rules of the trade union are complied with; and
  - (d) may seize any thing that appears to be evidence of the contravention of the requirements of this Ordinance or of the rules of the trade union or the commission of an offence under this Ordinance.
- (3) A person who obstructs or prevents the Registrar or an authorized officer from performing the functions under subsection (1) or (2) commits an offence and is liable—
  - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine of \$200,000 and to imprisonment for 1 year.
- (4) It is a defence for a person charged with an offence under subsection (3) to establish that, at the time of the alleged offence, the person had a reasonable excuse for obstructing or preventing the Registrar or the authorized officer from performing the functions of the Registrar or the authorized officer.



**51H. Powers to enter and search premises with warrants**

- (1) Subsection (2) applies if a magistrate is satisfied by information on oath by the Registrar or an authorized officer that there are reasonable grounds to suspect that there is, or is likely to be, on premises that are occupied by a registered trade union or any branch of the trade union and that are specified in the information—
  - (a) any document or information that may be required to be produced under section 51C; or
  - (b) any thing likely to be or contain evidence of the contravention of the requirements of this Ordinance or of the rules of the trade union or the commission of an offence under this Ordinance.
- (2) The magistrate may issue a warrant authorizing a person mentioned in the warrant, and any other persons who may be necessary to assist in the execution of the warrant—
  - (a) to enter the premises, if necessary by force, at any time within the period of 7 days beginning on the date of the warrant;
  - (b) to search for, seize and remove any document, information or thing that the person mentioned in the warrant reasonably believes to fall within the description of subsection (1)(a) or (b); and
  - (c) to exercise the powers under section 51G(2).
- (3) A person who obstructs or prevents the person under subsection (2) from performing the functions under that subsection commits an offence and is liable—
  - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
  - (b) on conviction on indictment—to a fine of \$200,000 and to imprisonment for 1 year.

- (4) It is a defence for a person charged with an offence under subsection (3) to establish that, at the time of the alleged offence, the person had a reasonable excuse for obstructing or preventing the person under subsection (2) from performing the functions under subsection (2)."

**68. Section 52 substituted**

Section 52—

**Repeal the section****Substitute****"52. Power to issue notices for contravention of objects or rules**

- (1) If the Registrar reasonably believes that any registered trade union or any officer of the trade union has done, is doing or is about to do an act that is inconsistent with any object or any specified rule of the trade union, or has contravened, is contravening or is about to contravene any specified rule of the trade union, the Registrar may serve on the trade union or on the officer (as the case may be) a written notice requiring the trade union or the officer to cease doing the act or to comply with the rule (as the case may be).
- (2) If any registered trade union on which, or any officer of a registered trade union on whom, a notice has been served under subsection (1) fails to comply with the notice, the trade union or the officer (as the case may be) commits an offence and is liable—
  - (a) on summary conviction—to a fine at level 4 and to imprisonment for 3 months; or
  - (b) on conviction on indictment—to a fine at level 6 and to imprisonment for 6 months.

(3) It is a defence for a person charged with an offence under subsection (2) to establish that, at the time of the alleged offence, the person had a reasonable excuse for failing to comply with the notice.

(4) In this section—

*specified rule* (指明規則) means any rule in respect of any of the matters specified in Schedule 2.”.

**69. Section 53 amended (application to trade union federations)**

(1) Section 53(1), English text—

**Repeal**

“hereinafter expressly provided, this Ordinance shall”

**Substitute**

“expressly provided below, this Ordinance must”.

(2) Section 53(1), English text, proviso—

**Repeal**

“shall not”

**Substitute**

“must not”.

(3) Section 53(1), English text, proviso—

**Repeal**

“his”.

(4) Section 53(2), English text—

**Repeal**

“thereof, or both, shall”

**Substitute**

“of the trade union, or both, must”.

(5) Section 53(2), English text—

**Repeal**

“chairman and one other officer thereof”

**Substitute**

“chairperson and one other officer of the trade union federation”.

**70. Section 54 amended (provisions as to application for registration of trade union federation)**

(1) Section 54, English text—

**Repeal**

“shall be signed by the chairman”

**Substitute**

“must be signed by the chairperson”.

(2) Section 54, English text—

**Repeal**

“therein, and shall”

**Substitute**

“in the trade union federation, and must”.

(3) Section 54, English text—

**Repeal**

“thereof” (wherever appearing)

**Substitute**

“of the trade union”.

**71. Section 56 amended (additions to membership of trade union federations)**

(1) Section 56(1), English text—

**Repeal**

“shall subsequently enter into any agreement for membership thereof or be a member of such registered”

**Substitute**

“may subsequently enter into any agreement for membership of the trade union federation or be a member of the”.

- (2) Section 56(1)(b)—

**Repeal**

“prescribed form, which shall”

**Substitute**

“specified form, which must”.

- (3) Section 56(1)(b), English text—

**Repeal**

“thereof” (wherever appearing)

**Substitute**

“of the trade union”.

- (4) Section 56(1)(c)—

**Repeal**

“all”

**Substitute**

“a majority”.

- (5) Section 56(1)(d)—

**Repeal**

“satisfied himself”

**Substitute**

“been satisfied”.

- (6) Section 56(1)(d) and (3), English text—

**Repeal**

“his”

**Substitute**

“the Registrar’s”.

- (7) Section 56(3)—

**Repeal**

“a contravention of section 58(3), the Registrar may forthwith”

**Substitute**

“commission of an offence under section 50A(1) or (2), the Registrar may immediately”.

- (8) Section 56(4)—

**Repeal**

“shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1”

**Substitute**

“commits an offence and is liable on conviction on indictment to a fine at level 5 and to imprisonment for 3 years”.

**72. Section 57 amended (officers of trade union federations)**

- (1) Section 57—

**Repeal**

“No person shall”

**Substitute**

“Without limiting section 17(2A) and (3), a person must not”.

- (2) Section 57, English text—

**Repeal**

“he” (wherever appearing)

**Substitute**

“the person”.

**73. Section 58 amended (forms and offences in relation thereto)**

(1) Section 58, heading—

**Repeal**

“Forms and offences in relation thereto”

**Substitute**

“Specified forms”.

(2) Section 58(1)—

**Repeal**

“prescribe all such forms as may, in his opinion,”

**Substitute**

“specify all forms that the Registrar considers to”.

(3) Section 58(2)—

**Repeal**

“Any form prescribed under subsection (1) shall”

**Substitute**

“A specified form must”.

(4) Section 58—

**Repeal subsections (3) and (4).**

**74. Section 59 amended (regulations)**

Section 59(3)—

**Repeal**

everything after “such regulations”

**Substitute**

“commits an offence and may prescribe penalties for it of a fine not exceeding level 3 and imprisonment not exceeding 6 months.”.

**75. Section 60 amended (delegation of powers)**

(1) Section 60, heading—

**Repeal**

“powers”

**Substitute**

“functions”.

(2) Section 60—

**Repeal**

“his powers, functions or duties under this Ordinance as he may consider”

**Substitute**

“the Registrar’s functions under this Ordinance as the Registrar considers”.

(3) Section 60, proviso—

**Repeal**

“no delegation made hereunder shall preclude the Registrar from exercising or performing at any time any of the powers,”

**Substitute**

“a delegation made under this section does not preclude the Registrar from performing at any time any of the”.

(4) Section 60, proviso—

**Repeal**

“or duties so”

**Substitute**

“so”.

**76. Section 61 amended (liability of officers thereof where offence committed by trade union)**

- (1) Section 61, English text, heading—

**Repeal**

“thereof”

**Substitute**

“of trade union”.

- (2) Section 61—

**Renumber the section as section 61(1).**

- (3) Section 61(1), English text—

**Repeal**

“thereunder”

**Substitute**

“under this Ordinance”.

- (4) Section 61(1), English text—

**Repeal**

“shall be”

**Substitute**

“is”.

- (5) Section 61(1)—

**Repeal**

everything after “like offence”

**Substitute a full stop.**

- (6) After section 61(1)—

**Add**

- “(2) It is a defence for an officer charged with the like offence under subsection (1) to establish that the act constituting the offence took place without the officer’s knowledge or consent.”.

**77. Section 61A added**

After section 61—

**Add****“61A. Standard of proof for defence**

A person is taken to have established a matter that needs to be established for a defence under section 12C(11), 34A(11), 45(7B), 45AA(8), 51C(5), 51G(4), 51H(4), 52(3) or 61(2) if—

- (a) there is sufficient evidence to raise an issue with respect to the matter; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

**78. Section 62 substituted**

Section 62—

**Repeal the section****Substitute****“62. Prosecution deadline for summary offences**

- (1) A prosecution for a summary offence under this Ordinance may only be started before the end of 2 years after the date on which the offence is committed.

**Note—**

This replaces the time limit under section 26 of the Magistrates Ordinance (Cap. 227).

(2) In this section—

*summary offence* (簡易程序罪行) means an offence triable summarily only.”.

**79. Section 63 amended (service of legal process and notices issued by Registrar)**

(1) Section 63(2)—

**Repeal**

“Notwithstanding the provisions of subsection (1), whenever the Registrar is required under section 11 to give notice to a trade union, he”

**Substitute**

“Despite subsection (1), whenever the Registrar is required under section 11 or 12B to issue a notice to, and serve the notice on, a trade union, the Registrar”.

(2) Section 63(2)—

**Repeal**

“such notice in the Gazette and such publication shall be deemed to be good and effective notice to”

**Substitute**

“the notice in the Gazette and the publication is deemed to be effective notice issued to, and duly served on,”.

**80. Section 65 amended (Ordinance not to affect certain agreements)**

(1) Section 65, Chinese text, heading—

**Repeal**

“若干”

**Substitute**

“某些”.

(2) Section 65, English text—

**Repeal**

“shall affect”

**Substitute**

“affects”.

(3) Section 65(b), English text—

**Repeal**

“him”

**Substitute**

“the employer”.

**81. Section 66 amended (notification in the Gazette)**

(1) Section 66, English text—

**Repeal**

“shall”

**Substitute**

“must”.

(2) After section 66(c)—

**Add**

“(ca) the fact that the Registrar has appointed a manager or liquidator for a trade union under this Ordinance;”.

**82. Section 67 heading amended (provisions of certain Ordinances not to apply to trade unions or trade union federations)**

Section 67, Chinese text, heading—

**Repeal**

“若干”

**Substitute**

“某些”。

**83. Section 68 amended (result of registration)**

- (1) Section 68(2), English text—

**Repeal**

“shall become registered thereunder”

**Substitute**

“becomes registered under this Ordinance”.

- (2) Section 68(2), English text—

**Repeal**

“of what description soever”

**Substitute**

“of any description”.

- (3) Section 68(2), English text—

**Repeal**

“membership thereof or vested in trustees for the members of such association shall become vested in the registered trade union upon”

**Substitute**

“their membership or vested in trustees for the members of such association must become vested in the registered trade union on”.

- (4) Section 68(2), English text—

**Repeal**

“himself and all other members of such association shall”

**Substitute**

“the officer or the member and all other members of such association must”.

**84. Schedule 1 amended**

- (1) Schedule 1—

**Repeal**

“[s. 17”

**Substitute**

“[ss. 17, 17AA and 17A”.

- (2) Schedule 1—

**Repeal**

“Any offence involving—”

**Substitute**

**“Offences Specified for Purposes of Section 17(2A) and (3)**

**Part 1**

**Offences Specified for Purposes of Section 17(2A)**

1. Any offence endangering national security.

**Part 2**

**Offences Specified for Purposes of Section 17(3)**

1. Any offence involving—”.

**85. Schedule 2 amended (matters for which provision must be made in the rules of every registered trade union)**

- (1) Schedule 2, Chinese text, heading—

**Repeal**

“必”。

- (2) Schedule 2—

**Repeal**

“[s. 18”

**Substitute**

“[ss. 18, 18AA, 27, 33A and 52”.

- (3) Schedule 2, paragraph (d)—

**Repeal**

everything before “the maintenance”

**Substitute**

“(d) make provision for”.

- (4) Schedule 2, paragraph (h), after “voting members”—

**Add**

“or (if applicable) the members’ representatives”.

- (5) Schedule 2, paragraph (h)(iic)—

**Repeal**

“a foreign country”

**Substitute**

“an external place”.

- (6) Schedule 2, Chinese text, paragraph (l)—

**Repeal**

“終結”

**Substitute**

“結束”。

- (7) Schedule 2, paragraph (m)—

**Repeal**

“the registers of the names of the members thereof”

**Substitute**

“its registers of members”.



**Part 3****Amendments to Trade Union Registration Regulations  
(Cap. 332 sub. leg. A)****86. Regulation 2 amended (contents of the register)**

Regulation 2(2)—

**Repeal**

“thereto shall be signed or initialled by the Registrar or the Deputy Registrar of Trade Unions”

**Substitute**

“to the entry must be approved by the Registrar or a public officer authorized by the Registrar, in any manner the Registrar considers appropriate”.

**87. Regulation 5 amended (provisions as to submission for registration of rules on application for registration of trade union)**

(1) Regulation 5, after “Ordinance”—

**Add**

“, one copy of the rules must be sent, and”.

(2) Regulation 5—

**Repeal subparagraph (a).**

(3) Regulation 5(b)—

**Repeal**

“both copies of the same shall”

**Substitute**

“the copy must”.

(4) Regulation 5(b)—

**Repeal**

“such copies”

**Substitute**

“the copy”.

(5) Regulation 5(c)—

**Repeal**

“both copies of the same shall be signed by the chairman”

**Substitute**

“the copy must be signed by the chairperson”.

(6) Regulation 5(c), English text—

**Repeal**

“therein”

**Substitute**

“in the trade union federation”.

**88. Regulation 6 amended (documents to be issued on registration of a trade union)**

(1) Regulation 6, English text—

**Repeal**

“Upon the registration of a trade union or a trade union federation, the Registrar shall”

**Substitute**

“On the registration of a trade union or a trade union federation, the Registrar must”.

(2) Regulation 6(c), English text—

**Repeal**

“in his opinion”

**Substitute**

“in the Registrar’s opinion”.

- (3) Regulation 6(c), Chinese text—

**Repeal**

“—份”

**Substitute**

“1 份”.

**89. Regulation 9 amended (procedure on registration of change of name)**

- (1) Regulation 9, English text—

**Repeal**

“he shall”

**Substitute**

“the Registrar must”.

- (2) Regulation 9(a), English text—

**Repeal**

“him”

**Substitute**

“the Registrar”.

- (3) Regulation 9(b), English text—

**Repeal**

“he thinks fit”

**Substitute**

“the Registrar considers appropriate”.

**90. Regulation 10 amended (provisions as to submission for registration of wholly new rules or altered, amended or added rules)**

- (1) Regulation 10(1)(a)—

**Repeal**

“two copies of the rules shall”

**Substitute**

“one copy of the rules must”.

- (2) Regulation 10(1)(b)—

**Repeal**

“thereof shall be made in the prescribed form and shall be signed by the chairman”

**Substitute**

“of the rules must be made in the specified form and must be signed by the chairperson”.

- (3) Regulation 10(1)(c)—

**Repeal**

“both copies of such rules shall”

**Substitute**

“the copy must”.

- (4) Regulation 10(2)(a)—

**Repeal**

“shall be made in the prescribed form and shall be signed by the chairman”

**Substitute**

“must be made in the specified form and must be signed by the chairperson”.

- (5) Regulation 10(2)(b), English text—

**Repeal**

“there shall”

**Substitute**

“there must”.

- (6) Regulation 10(2)(b), after “registration”—

**Add**

“one copy of the registered rules, which”.

- (7) Regulation 10(2)(b)(i)—

**Repeal**

“one copy of the registered rules”

**Substitute**

“must be”.

- (8) Regulation 10(2)(b)(ii)—

**Repeal**

“one copy of the text of the amendment, alteration or addition, as the case may be, which shall”

**Substitute**

“must”.

**91. Regulation 11 amended (procedure on registration of amalgamation of trade unions, etc.)**

- (1) Regulation 11, English text—

**Repeal**

“he shall”

**Substitute**

“the Registrar must”.

- (2) Regulation 11(b)—

**Repeal**

“a copy”

**Substitute**

“one copy”.

- (3) Regulation 11(b), English text—

**Repeal**

“him as complying, in his opinion”

**Substitute**

“the Registrar as complying, in the Registrar’s opinion”.

**92. Regulation 12 amended (loss, etc. of certificate)**

Regulation 12—

**Repeal**

“he may issue, free of charge, a duplicate thereof”

**Substitute**

“the Registrar may issue, free of charge, one duplicate of the certificate”.

**93. Regulation 13 amended (certificate of registration to be returned on cancellation of registration)**

Regulation 13—

**Repeal**

“shall, within 14 days”

**Substitute**

“must, within 14 days beginning on the date”.

**94. Regulation 15 amended (access to books for purposes of audit)**

- (1) Regulation 15(1)—

**Repeal**

“annual”.

- (2) Regulation 15(1), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (3) Regulation 15(1), English text—

**Repeal**

“in his custody or control”.

**95. Regulation 16 amended (audit of annual statement of account)**

- (1) Regulation 16, heading—

**Repeal**

“annual”.

- (2) Regulation 16—

**Repeal**

“auditing the annual”

**Substitute**

“auditing the”.

- (3) Regulation 16, English text—

**Repeal**

“shall examine”

**Substitute**

“must examine”.

- (4) Regulation 16, English text—

**Repeal**

“shall verify them against all accounts or vouchers relating thereto, and shall”

**Substitute**

“must verify them against all relevant accounts or vouchers, and must”.

- (5) Regulation 16(a)—

**Repeal**

“annual”.

- (6) Regulation 16(b)—

**Repeal**

“he”

**Substitute**

“the auditor”.

- (7) Regulation 16(b), English text—

**Repeal**

“thereunder”

**Substitute**

“under the Ordinance”.

**96. Regulation 17 amended (offences and penalty)**

- (1) Regulation 17(1)—

**Repeal**

“shall be guilty of an offence and shall be liable to a fine at level 1, and shall be”

**Substitute**

“commits an offence and is liable on conviction to a fine at level 1, and is”.

(2) Regulation 17(2)—

**Repeal**

“paragraph (2) of regulation 15 shall be guilty of an offence and shall be liable”

**Substitute**

“regulation 15(2) commits an offence and is liable on conviction”.

(3) Regulation 17(3) and (4)—

**Repeal**

“shall be guilty of an offence and shall be liable on summary”

**Substitute**

“commits an offence and is liable on”.

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**Explanatory Memorandum**

The main purposes of this Bill are to amend the Trade Unions Ordinance (Cap. 332) (*Cap. 332*) and the Trade Union Registration Regulations (Cap. 332 sub. leg. A) (*Cap. 332A*)—

- (a) to empower the Registrar of Trade Unions (*Registrar*) to refuse applications of trade unions for registration or amalgamation if it is necessary for safeguarding national security;
- (b) to prohibit persons who have been convicted of an offence endangering national security from holding office in any trade unions or signing any applications for registration of trade unions;
- (c) to impose restrictions on trade unions' receiving and using of contributions or donations made by external forces;
- (d) to provide for regulation in relation to trade unions' being or becoming members of organizations in external places and in relation to members of the executives of trade unions' (*officer*) being office-bearers of organizations in external places;
- (e) to empower the Registrar to appoint managers to take over the management of the property of trade unions pending the determination of appeals against the cancellation of the registrations of such trade unions;
- (f) to strengthen the enforcement powers of the Registrar and authorized officers;
- (g) to adjust the penalties for the offences under Cap. 332;
- (h) to improve other aspects of the regulatory regime in respect of trade unions; and
- (i) to make related and miscellaneous amendments.

2. The Bill is divided into 3 Parts.

### Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement.

### Part 2—Amendments to Cap. 332

4. Clause 3 amends section 2 of Cap. 332 to add the definitions of *external force*, *external place*, etc.
5. Clauses 5, 6, 11 and 15 add new Division headings to Part III of Cap. 332 to improve the organization of that Part.
6. Clause 7 amends section 5 of Cap. 332—
- (a) to provide that a person's signature on an application for registration of a trade union is not to be counted as a valid signature if the person is not allowed to sign the application under section 17 of Cap. 332 as amended by the Bill; and
  - (b) to increase the penalty for an offence under that section 5.
7. Clause 9 amends section 7 of Cap. 332 to empower the Registrar—
- (a) to refuse to register a trade union if it is necessary for safeguarding national security; and
  - (b) to refuse to register a trade union on the grounds that the name of the trade union is likely to deceive or mislead the public etc.
8. Clause 10 amends section 8 of Cap. 332 to provide that an appeal must not be brought in relation to the Registrar's decision to refuse to register a trade union on the ground that it is necessary for safeguarding national security.
9. Clause 12 amends section 10 of Cap. 332 to provide that the Registrar may cancel the registration of a trade union if the general interests of the members of the trade union are prejudiced in the course of

- dissolution of the trade union. Clause 14 consequentially amends section 12 of Cap. 332 to provide that a member of the trade union who considers that no such circumstance exists may bring an appeal in relation to the decision to cancel the registration.
10. Clause 13 amends section 11 of Cap. 332 to change the period for issuing a previous notice of cancelling the registration of a trade union by the Registrar from 2 months to 28 days.
11. Clause 15 adds a new Division 4 to Part III of Cap. 332 to empower the Registrar to appoint a manager to take over the management of the property of a trade union pending the determination of appeal against the cancellation of the registration of the trade union, and to provide for the powers of a manager. Clause 15 also adds an interpretative provision to provide for the meaning of the property of a trade union.
12. Clause 16 amends section 14 of Cap. 332 to allow reasonable steps relating to the dissolution of the trade union to be taken after its registration has been cancelled.
13. Clauses 19, 23, 27, 30 and 33 add new Division headings to Part IV of Cap. 332 to improve the organization of that Part.
14. Clause 20 amends section 17 of Cap. 332 to—
- (a) allow a registered trade union to accept, in accordance with its rules, as a member of the trade union a person who is not ordinarily resident in Hong Kong but is engaged or employed in Hong Kong in a trade, industry or occupation with which the trade union is directly concerned;
  - (b) prohibit a person who has been convicted of an offence endangering national security from holding office in any trade union or signing any application for registration of a trade union;

- (c) prohibit a person who has been convicted of any other specified offence from signing any application for registration of a trade union; and
  - (d) increase the penalty for the contravention of an offence under that section.
15. Clause 84 consequentially amends Schedule 1 to Cap. 332 to add any offence endangering national security to that Schedule.
  16. Clause 21 adds a new section 17AA to Cap. 332 to require an officer of a trade union to notify the Registrar after the officer is charged with and convicted of any specified offence. Clause 22 consequentially amends section 17A of Cap. 332 to provide that, if an officer of a trade union fails to notify the Registrar after the officer is charged with any specified offence, the Registrar may serve a written notice or apply to the court for an injunction requiring the officer to cease holding office until the proceedings relating to the offence have been concluded.
  17. Clause 23 adds a new section 17C to Cap. 332 to provide for matters relating to voting by members' representatives of a trade union.
  18. Clause 29 amends section 20A of Cap. 332 to include the mens rea in an offence under subsection (4) of that section and to increase the penalty for that offence.
  19. Clause 32 amends section 22 of Cap. 332 to increase the penalty for an offence under that section.
  20. Clause 35 adds a new Part IVA heading to Cap. 332 to improve the organization of Cap. 332.
  21. Clause 37 amends section 27 of Cap. 332 to empower the Registrar to refuse to give consent to an intended amalgamation of trade unions if it is necessary for safeguarding national security, and to provide that an appeal must not be brought in relation to such a decision.

22. Clause 41 amends section 31 of Cap. 332 to provide that an authorization or consent for being or becoming a member of an organization in external place obtained by a trade union before amalgamation does not apply in relation to the trade union formed by the amalgamation. In addition, clause 38 repeals section 28 of Cap. 332 so that the relevant application for amalgamation of trade unions is not required to be referred to the Chief Executive.
23. Clause 42 adds a new Part IVB heading to Cap. 332 to improve the organization of Cap. 332, and adds a new section 31A to require that a trade union must notify the Registrar within 14 days after passing a resolution for dissolution and to provide for the relevant offence.
24. Clause 43 amends section 32 of Cap. 332 to change the persons to whom an offence under that section applies, and to increase the penalty for that offence.
25. Clauses 45, 49 and 52 add new Division headings to Part V of Cap. 332 to improve the organization of that Part.
26. Clause 46 amends section 33 of Cap. 332 to increase the penalty for an offence under that section.
27. Clause 47 amends section 33A of Cap. 332 so that a trade union may also utilize an electoral fund for a subsector election of the Election Committee and an election of the Chief Executive.
28. Clause 49 adds a new section 34A to Cap. 332 to provide for the restrictions on the receipt by a trade union of contributions or donations from an external force. Clause 51 amends section 36 of Cap. 332 to require that a trade union that receives contributions or donations from an external force must furnish to the Registrar a statement of account for the relevant receipts and expenditures, and to increase the penalty for an offence under that section.
29. Clause 52 adds a new section 36A to Cap. 332 to require a trade union to keep an account book, verifying documents for records of transactions, the register of members, minutes and records of

resolutions, etc., and to provide for the relevant offences. Clause 55 adds a new section 38A to Cap. 332 to provide for transitional provisions in relation to the duty to keep records and documents.

30. Clause 58 adds a new Part VIA heading to Cap. 332 to improve the organization of Cap. 332, and adds a new section 44A to provide for the interpretation of that Part.
31. Clause 59 amends section 45 of Cap. 332 to—
  - (a) extend the restrictions on a trade union's being or becoming a member of an organization in foreign country to an organization in external place;
  - (b) empower the Registrar to serve a written notice on a trade union that contravenes the restrictions requiring the trade union to cease to be a member of the organization in external place; and
  - (c) provide for the relevant offences.
32. Clause 85 consequentially amends Schedule 2 to Cap. 332, and clause 25 adds a new section 18AA to Cap. 332, to provide for the relevant transitional matters.
33. Clause 60 adds a new section 45AA to Cap. 332 to—
  - (a) provide for the restrictions on a trade union officer's being an office-bearer of an organization in external place;
  - (b) empower the Registrar to serve a written notice on a trade union officer who contravenes the restrictions requiring the officer to cease holding office in the trade union; and
  - (c) provide for the relevant offences.
34. Clause 61 adds a new section 45B to Cap. 332 to provide for the relevant transitional matters.
35. Clauses 62, 63 and 65 respectively amend sections 46, 47 and 50 of Cap. 332 to increase the penalty for an offence under those sections.

Clause 64 amends section 49 of Cap. 332 to increase the maximum limit on the sum in respect of the punishment for withholding the property of a trade union under that section.

36. Clause 66 adds a new section 50A to Cap. 332 to provide for the offence relating to the furnishing of false or misleading information. Clause 73 consequentially repeals section 58(3) and (4) of Cap. 332.
37. Clauses 67 and 68 respectively add a new Part VIIIA to Cap. 332 and substitute section 52 of Cap. 332 to provide for the enforcement powers of the Registrar and the officers authorized by the Registrar and the relevant offences, which include—
  - (a) the powers to conduct inquiries (new section 51C);
  - (b) the powers to require verification of explanation, etc. by statutory declaration (new section 51D);
  - (c) the offences in relation to the destruction of documents and information (new section 51F);
  - (d) the powers to enter premises of trade unions (new section 51G);
  - (e) the powers to enter and search premises with warrants (new section 51H); and
  - (f) the power to issue notices for the contravention of objects or rules (section 52 as amended).
38. In view of the new Part VIIIA, clauses 53 and 54 consequentially amend section 37 of Cap. 332 and repeal section 38 of Cap. 332 respectively.
39. Clause 71 amends section 56 of Cap. 332 to relax the requirements relating to the joining of a trade union in a trade union federation, and to increase the penalty for an offence under that section.
40. Clause 74 amends section 59 of Cap. 332 to increase the maximum penalty that may be prescribed for an offence under the regulations under Cap. 332.



41. Clause 77 adds a new section 61A to Cap. 332 to provide for the standard of proof for the defence for an offence under Cap. 332.
42. Clause 78 substitutes section 62 of Cap. 332 to provide that the prosecution deadline under that section only applies to summary offences.
43. Clause 81 amends section 66 of Cap. 332 to require the Registrar to notify in the Gazette the fact that the Registrar has appointed a manager or liquidator for a trade union.
44. The Bill also makes miscellaneous amendments to Cap. 332, which include—
  - (a) replacing prescribed forms by specified forms;
  - (b) replacing pronouns specific to a gender by gender-neutral nouns; and
  - (c) replacing certain archaic language, or expressions no longer used in new legislation, by plain language.

**Part 3—Amendments to Cap. 332A**

45. Clause 86 amends regulation 2 of Cap. 332A to simplify the manner in which the addition of, or the amendment to, an entry in the register of a trade union is approved.
46. Clauses 87 to 96 make other miscellaneous amendments to Cap. 332A.

## **PROPOSED AMENDMENTS TO SAFEGUARD NATIONAL SECURITY**

To safeguard national security, the Government proposes to strengthen the regulation of trade unions under TUO. Details are as follows.

### **(A) Regulation over trade union registration and eligibility for assuming union office**

#### **(I) Empowering the Registrar to refuse applications for new registration or amalgamation of trade unions as necessary for safeguarding national security**

2. To prevent any organization engaging in acts or activities that endanger national security from registration as a trade union, we propose to amend TUO to empower the Registrar to refuse any application for new registration or amalgamation of trade unions if it is necessary for safeguarding national security (hereinafter referred to as “national security ground”). As for the prohibition of operation of trade unions, SNSO has introduced an overarching mechanism for prohibiting, by order published in the Gazette, the operation of specified organizations in the HKSAR (including trade unions registered under TUO) if it is necessary for safeguarding national security<sup>1</sup>. A prohibited trade union is dissolved on the taking effect of the order, and its registration under TUO is also cancelled upon such dissolution. No appeal mechanism against the order is provided under SNSO. Similarly, we propose that there should be no appeal mechanism against the decision of the Registrar to refuse the application for new registration or amalgamation on the national security ground under TUO. The applicants cannot appeal to the court against the relevant decision of the Registrar, but the decision is amenable to judicial review.

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<sup>1</sup> Section 60(1) of SNSO: “If the Secretary for Security reasonably believes that it is necessary for safeguarding national security to prohibit the operation or continued operation of an organization specified in subsection (3) in the HKSAR, the Secretary for Security may, by order published in the Gazette, prohibit the operation or continued operation of the organization in the HKSAR.”

(II) Prohibiting persons who have been convicted of specified offences from serving as trade union officers or promoters of new union registration applications

3. The existing section 17(3) of TUO provides that save with the consent of the CE in Council, no person who has been convicted of any offence specified in Schedule 1 (i.e. fraud, dishonesty, extortion and membership of a triad society) shall serve as an officer<sup>2</sup> of a registered trade union within the period of five years from the date of conviction or discharge from prison, whichever is the later. To safeguard trade unions from undue influence of persons who have been convicted of offences endangering national security and to deter convicted persons with ulterior motives from performing unlawful or defiant activities through the formation of new trade unions, we propose to -

- (i) add “offence endangering national security”<sup>3</sup> to Schedule 1 to TUO and prohibit a person who has been convicted of such an offence from assuming office in any registered trade unions or from serving as a promoter of any new union registration applications<sup>4</sup> **from the date of conviction**. The above restrictions **cannot** be lifted by consent of CE in Council; and
- (ii) prohibit a person who has been convicted of any specified offence in the existing Schedule 1 (i.e. not including “offence endangering national security”) from serving as a promoter of any new union registration applications within the period of **five years** from the date of conviction or discharge from prison, whichever is the later. The existing restriction on assumption of union office during the aforesaid period will be maintained. The above restrictions **can** be lifted by consent of CE in Council as per the existing provisions of TUO.

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<sup>2</sup> As defined in TUO, “officer”, in relation to a trade union or a branch of a trade union or a trade union federation, includes any member of the executive thereof, but does not include an auditor.

<sup>3</sup> The definition of “offence endangering national security” under section 7 of SNSO applies to “any other Ordinance”, including TUO.

<sup>4</sup> According to section 5(3) of TUO, every new union registration application shall be signed by not less than seven voting members of the trade union (i.e. promoters).

4. As offences endangering national security are more serious than the specified offences in the existing Schedule 1, we consider that stricter restrictions should be imposed on persons who have been convicted of offences endangering national security in respect of the assumption of union office or the intended formation of new trade unions.

5. To enhance monitoring of the appointment of trade union officers, we propose to require a trade union officer who has been charged with or convicted of any offence specified in the amended Schedule 1 (hereinafter referred to as “specified offence”) to inform the Registrar in writing as soon as practicable specifying the nature of the offence that the officer has been charged with or convicted of. If a trade union officer charged with a specified offence notifies the Registrar as required, the officer may continue to assume union office before the conclusion of the relevant criminal proceedings; however, if the officer fails to comply with the notification requirement, the Registrar may serve upon the officer a notice in writing requiring the officer to cease holding office until the conclusion of the relevant criminal proceedings. Where a trade union officer who has been convicted of a specified offence continues to assume union office without obtaining the consent of CE in Council (if applicable), the Registrar may take prosecution action against the officer and serve upon the officer a notice in writing requiring him to cease holding office. If a trade union officer who has been charged with or convicted of a specified offence does not comply with the written notice issued by the Registrar, the Court of First Instance may, on the application by the Registrar, grant an injunction prohibiting such officer from holding office. For a trade union officer who has been charged with a specified offence, the aforesaid injunction will be effective until the conclusion of the relevant criminal proceedings.

**(B) Forestalling undue interference from an external force / organization established in an external place**

**(III) Regulating trade unions’ receipt and use of contributions or donations provided by an external force**

6. SNSO stipulates the offence of “external interference endangering national security”<sup>5</sup> to prevent undue interference endangering national security

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<sup>5</sup> Section 52 of SNSO.

by external force<sup>6</sup> with the affairs of our country and the HKSAR. To forestall trade unions from receiving contributions or donations from an external force<sup>7</sup> to perform acts or activities endangering national security or interfere with local elections, we propose to make new provisions in TUO -

- (i) requiring trade unions to **make an application to the Registrar declaring** the source(s) and usage, etc. of **contributions or donations provided by an external force before receiving the contributions or donations. Trade unions shall not receive such contributions or donations unless approved by the Registrar;**
- (ii) **prohibiting trade unions from using contributions or donations provided by an external force for local elections (including elections of the District Councils (“DC”), LegCo, EC and CE) under TUO, even if the trade unions are approved to receive such contributions or donations** [Note: See paragraph 6 of **Annex C** on EC and CE elections]; and
- (iii) **requiring trade unions which have been approved to receive contributions or donations provided by an external force to keep separate and detailed accounts of the contributions or donations; and report such accounts to the Registrar regularly.**

(IV) Regulating trade unions’ affiliation with an organization established in an external place

7. The existing section 45 of TUO regulates the affiliation of registered trade unions with any organization established in foreign countries as follows -

- (i) section 45(1) allows a trade union to be or become a member of an organization of workers or employers, or a relevant professional

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<sup>6</sup> Under section 6 of SNSO, “external force” means (i) a government of a foreign country; (ii) the authority of an external place; (iii) a political party in an external place; (iv) any other organization in an external place that pursues political ends; (v) an international organization; and (vi) related entity or related individual of (i) to (v), etc. Under section 3 of SNSO, “external place” means a region or place outside the HKSAR (other than the Mainland and Macao).

<sup>7</sup> The meaning of “external force” under TUO will have the same meaning of “external force” under SNSO (see footnote 6).

organization<sup>8</sup> (hereinafter referred to as “related organization”) established in a foreign country, if it is so authorized by ballot of a majority of its voting members present at a general meeting (hereinafter referred to as “authorized by ballot of its members”). The trade union shall, within one month after becoming a member of a related organization in a foreign country, notify the Registrar in writing;

- (ii) section 45(3) provides that a trade union shall not be or become a member of an organization in a foreign country falling outside the aforesaid categories, unless the consent of CE has been obtained and it is so authorized by ballot of its members; and
- (iii) section 45(6) prohibits a trade union from affiliating with any political organization or body established in a foreign country.

8. To forestall trade unions from engaging in acts or activities endangering national security through affiliation with organizations established in an external place<sup>9</sup>, we propose to expand the coverage of section 45(3) and section 45(6) of TUO from “foreign country” to “external place”, and **regulate trade unions’ affiliation with organizations established in an external place** as follows -

- (i) maintain the existing requirement that a trade union is **allowed to be or become a member of a related organization in a foreign country** if it is so **authorized by ballot of its members**. The trade union shall, within one month after becoming a member of a related organization in a foreign country, notify the Registrar in writing; and
- (ii) a trade union **shall not be or become a member of any other organization established in an external place, unless the consent of CE has been obtained** and it is so **authorized by ballot of its members, and that other organization is not a political organization or body**.

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<sup>8</sup> Under TUO, “relevant professional organization” means an organization the objects of which are to promote the interests of persons engaged or employed in a trade, industry or occupation which is the same as, or similar to, the trade, industry or occupation with which the trade union is directly concerned.

<sup>9</sup> The meaning of “external place” under TUO will have the same meaning of “external place” under SNSO (see footnote 6).

(V) Regulating the assumption of office by trade union officers in any organization established in an external place

9. We propose to **regulate the assumption of office by trade union officers in any organization established in an external place** as follows -

- (i) if a **trade union has been or become a member of a related organization in a foreign country or other organization established in an external place in accordance with the law (hereinafter referred to as “affiliated organization”)**, its trade union officer is allowed to **be an office-bearer of the affiliated organization**. The trade union officer is required to **notify the Registrar in writing** within one month after beginning to be an office-bearer of the affiliated organization; and
- (ii) a trade union officer **shall not be an office-bearer of a non-affiliated organization established in an external place, unless the consent of CE has been obtained and that organization is not a political organization or body**.

**(C) Enhancement of enforcement powers**

(VI) Strengthening the statutory powers of the Registrar in regulating and investigating trade unions

10. To effectively prevent, investigate and suppress trade unions’ suspected unlawful acts as well as acts and activities that may endanger national security, we propose to **strengthen the statutory powers of the Registrar in regulating trade unions and investigating suspected contraventions of TUO or trade union rules**, including -

- (i) requiring trade unions to **keep specified records<sup>10</sup> for two years** and render such records within the specified timeframe when required by the Registrar;

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<sup>10</sup> The specified records include: (i) account books of the trade union and relevant records (e.g. vouchers, bank statements, invoices, receipts, etc.); (ii) register of members containing specified information (e.g. name, occupation and type of membership of the members, etc.); and (iii) minutes of the annual / extraordinary general meetings and executive members’ meetings, and records of resolution passed by the trade union officers without a meeting.

- (ii) empowering the Registrar or any public officer authorized by the Registrar in writing (“authorized officer”) to **enter any non-domestic premises occupied by the trade union or its branch to inspect the abovementioned specified records, documents or information which may be necessary to ascertain whether requirements of TUO or the trade union rules are complied with, and to make copy of the aforesaid specified records, documents or information, conduct examination and ask questions as necessary and seize any evidence related to suspected contravention of TUO or the trade union rules, or an offence under TUO** during the inspection. Under specific circumstances, the Registrar or any authorized officer may apply for a court warrant and the person(s) mentioned in the warrant may enter and search any premises (including domestic premises) occupied by the trade union or its branch and seize any evidence related to suspected contravention of TUO or the trade union rules, or an offence under TUO;
- (iii) empowering the Registrar or any authorized officer to make an inquiry for carrying out the Registrar’s functions under TUO. **The trade union, its officers under inquiry and / or any other person(s) whom the Registrar or the authorized officer reasonably believes to be in possession, control or custody of documents or information relevant to the inquiry** are required to **provide information and documents as may be reasonably required for the purpose of the inquiry** (i.e. not limited to the specified records mentioned in paragraph 10(i)) within such period in the mode and / or at the place specified by the Registrar or the authorized officer and answer questions relating to any matter under inquiry;
- (iv) empowering the Registrar to **serve upon a trade union or its officers that engage in an act or activity suspected to be inconsistent with the union rules<sup>11</sup> a notice in writing**, ordering the trade union or the officers to **refrain from performing such act or activity**; and
- (v) with respect to a **trade union which has filed an appeal against the cancellation of registration**, empowering the Registrar to **serve a written notice on the trade union for appointment of a manager to take over the management of the property of the trade union** until the conclusion of the appeal, with a view to preventing improper disposal of

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<sup>11</sup> The rules shall concern matters specified in Schedule 2 to TUO, including, among others, the objects for which the trade union is established, the appointment and replacement of officers, and the purposes to which the funds of the trade union may be applied, etc.



the trade union's property or continual conduct of acts or activities suspected to be in contravention of TUO or inconsistent with the union rules.

11. Any trade unions or their officers that contravene the relevant requirements in paragraphs 3, 5, 6, 8, 9 and 10 above shall be subject to criminal liability. Details of the proposed penalties are set out at **Annex D**.

## **OTHER PROPOSED AMENDMENTS TO IMPROVE THE TRADE UNION REGULATORY REGIME**

We also propose related and miscellaneous amendments to improve the trade union regulatory regime. Details are as follows.

### **(A) Regulation over cancellation of trade union registration and naming of trade unions**

#### **(I) Empowering the Registrar to cancel the registration of a trade union undergoing dissolution to protect members' interests**

2. Currently, where a trade union is voluntarily dissolved, the dissolution proceedings (including the disposal of assets and the distribution of funds) are governed by the rules of the trade union. To ensure proper conduct and completion of the dissolution proceedings without delay, we propose to -

- (i) empower the Registrar to cancel the registration of a trade union undergoing dissolution on the ground that the general interests of the members of the trade union have been prejudiced, or would likely be prejudiced, in the dissolution process; and
- (ii) require a trade union which has passed a resolution of dissolution in accordance with its rules to inform the Registrar in writing within 14 days after the passing of such resolution. A trade union that contravenes the above requirement shall be subject to criminal liability. Details of the proposed penalty are set out at **Annex D**.

#### **(II) Aligning the notice period and appeal period for cancelling the registration of a trade union**

3. At present, the Registrar is required to give to a trade union not less than two months' prior notice in writing specifying the ground upon which the Registrar intends to cancel its registration (hereinafter referred to as "notice period"). Moreover, any voting member of the trade union may appeal to the Court of First Instance within 28 days after the service of such notice (hereinafter referred to as "appeal period"). To rationalise the relevant procedures, we propose to align the notice period with the appeal period as 28 days.

### (III) Improving regulation over the naming of trade unions

4. To protect the public or trade union members from being misled by an improper trade union name, we propose to empower the Registrar to refuse an application for union registration, amalgamation or change of union name on the ground that the proposed name of the trade union is -

- (i) likely to deceive or mislead the public or the members of such trade union or of any other existing trade union as to the nature and purposes of the trade union; or
- (ii) inconsistent with the objects or rules of the trade union.

### **(B) Relaxing the eligibility for trade union membership and the use of trade union funds for local elections**

### (IV) Allowing registered trade unions to consider whether to admit persons who are not ordinarily resident in Hong Kong as members

5. The existing section 17(1) of TUO provides that no person shall be a member of a registered trade union unless the person is ordinarily resident in Hong Kong and engaged or employed in a trade, industry or occupation with which the trade union is directly concerned. To protect the occupational interests of imported workers and relevant employees who are permitted to work in Hong Kong through different admission schemes but reside outside Hong Kong<sup>1</sup>, we propose to **provide an exceptional arrangement whereby registered trade unions may consider whether to make provisions in their rules to admit persons who are not ordinarily resident in Hong Kong but are engaged or employed in Hong Kong in a trade, industry or occupation with which the trade unions are directly concerned as members. The relevant rules will only come into effect after registration by the Registrar.** In determining whether to register the relevant rules, the Registrar will consider whether the rules are inconsistent with the provisions of TUO or the principal objects of the trade union, etc.

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<sup>1</sup> For example, the Enhanced Supplementary Labour Scheme, Labour Importation Scheme for the Construction Sector and Labour Importation Scheme for the Transport Sector allow employers to arrange their imported workers from the Mainland to reside in (i) the accommodation provided by the employer in Hong Kong / on the Mainland which meets the specified standard; or (ii) the imported workers' own residential premises on the Mainland.

(V) Allowing trade unions to use their funds (not provided by an external force) for elections of EC and CE

6. TUO currently allows trade unions to use their funds for elections of DC and LegCo<sup>2</sup>. Under the improved electoral system, an eligible trade union can be registered as a corporate voter for the Labour EC Subsector<sup>3</sup> to elect EC members of the Subsector, and EC members of the Subsector essentially come from trade unions. We propose to allow trade unions to use their funds for EC and CE elections, but **the contributions or donations provided by an external force are prohibited from being used for local elections** (paragraph 6 of **Annex B**).

**(C) Technical amendments**

(VI) Facilitating trade unions' operation and rationalising the work of RTU

*Correspondingly amending the requirement of referring applications for amalgamation of trade unions to CE*

7. The existing section 28 of TUO provides that if a union party to an application for intended amalgamation is a member of any kind of a trade union or other organization established outside Hong Kong, the Registrar shall refer such application to CE. Unless the consent of CE has been obtained, the Registrar shall refuse the application. In line with the proposed amendments to section 45 of TUO (paragraph 9 of **Annex B**), we propose to correspondingly amend the requirement of referring applications for amalgamation of trade unions to CE as follows -

- (i) if trade unions apply for amalgamation and any of such trade unions is **already a member of a related organization established in a foreign country in accordance with the amended section 45**, the amalgamation application can be determined by the Registrar;

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<sup>2</sup> Sections 33A, 33B and 34 of TUO provide that except for paying the expenses of DC and LegCo elections, trade union funds shall not, whether in Hong Kong or elsewhere, be applied directly or indirectly for any political purpose; or be paid or transferred to any person or body of persons in furtherance of any political purpose.

<sup>3</sup> An eligible trade union refers to a trade union registered under TUO of which all the voting members are employees and has been operating for the three years immediately before making its application for registration as a corporate voter.

- (ii) if trade unions apply for amalgamation and any of such trade unions **has obtained CE's consent to affiliate with an organization established in an external place in accordance with the amended section 45**, the amalgamation application can be determined by the Registrar; and
- (iii) **if the trade union formed by amalgamation wishes to become a member of an organization established in an external place, authorization by ballot of its members and / or CE's consent under the amended section 45 will be required.**

With the above amendments, section 28 of TUO would no longer be necessary and is proposed to be repealed.

*Allowing voting by members' representatives ("MRs") on matters relating to trade unions' intended affiliation with organizations established in an external place*

8. We propose to amend section 45 of TUO to explicitly provide for voting by MRs on matters relating to trade unions' intended affiliation with related organizations established in a foreign country or other organizations established in an external place subject to the rules of the trade unions. Certain sections of TUO<sup>4</sup> currently allow a trade union to deal with its affairs subject to the approval by a majority of its members present at a general meeting of members or by a majority of MRs present at a general meeting of MRs.

*Providing greater flexibility for registered trade union federations in admitting new member unions*

9. Under the existing section 56(1) of TUO, a registered trade union federation is required to, among others, obtain the consent of all officers of the union federation before admitting a new member union. To provide greater flexibility for trade union federations in admitting new member unions, we propose to lower the threshold such that trade union federations are only required to obtain the consent of a majority of their officers for the admission.

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<sup>4</sup> For example, section 23(1) and section 33B of TUO respectively provide that a trade union may change its name and approve expenses for specified electoral purposes subject to the approval of a majority of its members or MRs present at a general meeting where the rules of the union allow voting by MRs.

*Making it clear that the protection against intimidation and annoyance covers the spouse of a person*

10. Under the existing section 47(1) of TUO, the protection against intimidation and annoyance covers a person who has a legal right to do or abstain from doing any act, as well as his wife or children. For the avoidance of doubt, we propose to make it clear that the protection against intimidation and annoyance covers spouse (i.e. including wife and husband).

*Rationalising and streamlining the relevant work arrangements of RTU*

11. We propose to provide more flexibility in the appointment of officers of RTU, streamline the keeping of entries or amendments in the register of trade unions after endorsement of the Registrar or any authorized officer, and substitute the expression “prescribed form” in all relevant sections of TUO with “specified form” so as to empower the Registrar to specify the forms by administrative means.

## PROPOSED PENALTIES OF THE EXISTING AND NEW OFFENCES

At present, most offences committed by trade unions under TUO or TURR are punishable by a fine at level 1 (i.e. \$2,000), while some offences committed by trade union officers or relevant persons are subject to a fine at level 1 and imprisonment for three to six months. To strike a balance between enhancing the deterrent effect of TUO and protecting the right to freedom of association, we propose the following penalties for the existing offences and the new offences related to the proposed amendments.

### **I. Minor offences in relation to daily administration of trade unions**

#### **(a) Any registered trade union which:**

<b>Section of TUO / TURR</b>	<b>Existing / New Offence</b>	<b>Nature of the Offence</b>	<b>Proposed Penalty</b>
18(7)	existing	fails to have rules that provide adequately for all matters specified in Schedule 2 to TUO.	A fine at level 1 on summary conviction (i.e. maintaining the status quo for the existing offences).
18(8)	existing	fails to submit alteration, amendment or addition of rules or wholly new rules in the specified form within the specified period; or contravenes the requirement that no rule shall take effect until it has been registered.	
20(3)	existing	fails to have a registered office / postal address or inform the Registrar of the situation of the registered office / postal address and their changes.	
20A(3)	existing	fails to have a common seal bearing its registered name.	
21(3)	existing	fails to notify the Registrar within the specified period of the particulars of its branches and various undertakings.	

<b>Section of TUO / TURRE</b>	<b>Existing / New Offence</b>	<b>Nature of the Offence</b>	<b>Proposed Penalty</b>
23(8)	existing	fails to make an application to the Registrar for registration of the change of name within the specified period.	
31A(2)	new	fails to notify the Registrar within the specified period of the passing of a dissolution resolution.	
45(7)	existing	fails to notify the Registrar within the specified period of being a member of an organization of workers or employers, or a relevant professional organization established in a foreign country.	
17(3) of TURRE	existing	displays or makes use of any name purporting to be the name of a trade union but is not its registered name.	
17(4) of TURRE	existing	fails to include in its statement of account the accounts of any branch and business or undertakings operated by or in the name of the trade union.	

**(b) Any trade union officer who:**

<b>Section of TUO</b>	<b>Existing / New Offence</b>	<b>Nature of the Offence</b>	<b>Proposed Penalty</b>
45AA(6)	new	fails to notify the Registrar within the specified period after becoming an office-bearer of an organization established in an external place with which the trade union is affiliated in accordance with TUO.	A fine at level 1 on summary conviction.



**(c) Any person who:**

<b>Section of TURR</b>	<b>Existing / New Offence</b>	<b>Nature of the Offence</b>	<b>Proposed Penalty</b>
17(1)	existing	for the time being having custody of the certificate of registration of the trade union, fails to return such certificate to the Registrar within the specified period.	A fine at level 1 on summary conviction (i.e. maintaining the status quo).
17(2)	existing	conceals any book or account of a registered trade union from the approved auditor; denies any such auditor access to such book or account; or obstructs any such auditor in any examination thereof.	

**(d) Others**

<b>Section of TUO</b>	<b>Existing / New Offence</b>	<b>Nature of the Offence</b>	<b>Proposed Penalty</b>
59(3)	existing	Regulations made under section 59(1) may provide that any person who, or any registered trade union that, contravenes any of the provisions of such regulations shall be guilty of an offence and may prescribe penalties not exceeding the fine and imprisonment provided in section 59(3).	A fine not exceeding level 3 and imprisonment not exceeding 6 months on summary conviction.

## **II. Offences in relation to submission of important statutory forms and keeping of trade union records**

<b>Section of TUO</b>	<b>Existing / New Offence</b>	<b>Nature of the Offence</b>	<b>Proposed Penalty</b>
22(4)	existing	Any registered trade union which fails to notify or furnish to the Registrar within the specified period the change of officers or particulars in respect of any officer.	A fine at level 4 (i.e. 25,000) on summary conviction.
32(2)	existing	Any registered trade union, every officer of the trade union, or other person bound by the rules to send or give the notice of dissolution, fails to send the notice in accordance with the statutory requirements.	
36(4)	existing	Any registered trade union which fails to furnish to the Registrar within the specified period an annual statement of account and an annual return showing its membership and names of officers in accordance with the statutory requirements.	
	new	Any registered trade union which fails to furnish to the Registrar within the specified period a separate annual statement of account that contains all receipts and expenditure of the contributions or donations received from an external force in accordance with the statutory requirements.	
36A(3)	new	Any registered trade union which fails to keep the specified records (including account books and essential accounting records, register of members containing the specified information, minutes of the annual / extraordinary general meetings and executive members' meetings, and	

Section of TUO	Existing / New Offence	Nature of the Offence	Proposed Penalty
		records of resolutions passed by its officers without a meeting) in accordance with the statutory requirements.	
36A(4)	new	Any registered trade union which fails to keep a separate set of account books and the relevant essential records which show details of all the transactions related to the contributions or donations received from an external force in accordance with the statutory requirements.	A fine at level 5 (i.e. \$50,000) on summary conviction.

### **III. Offences in relation to use of trade union funds**

**Any registered trade union which:**

<b>Section of TUO</b>	<b>Existing / New Offence</b>	<b>Nature of the Offence</b>	<b>Proposed Penalty</b>
33(2)	existing	uses its funds for the purposes other than those stipulated in TUO.	A fine at level 5 on conviction on indictment.
33A(4)	existing	establishes or uses an electoral fund in contravention of TUO, or compels its member to contribute to the electoral fund.	
34A(8)	new	receives or expends contributions or donations from an external force without obtaining approval from the Registrar.	A fine at level 6 (i.e. \$100,000) on summary conviction; or
34A(9)	new	<ul style="list-style-type: none"><li>- fails to return the contributions or donations to an external force as soon as practicable after the Registrar has refused the application for receipt of the contributions or donations from the external force; or</li><li>- expends contributions or donations from an external force for any purpose other than that approved by the Registrar.</li></ul>	A fine of \$200,000 on conviction on indictment.

**IV. Offences in relation to management of unregistered trade unions; eligibility of trade union officers; acts beyond peaceful picketing or acts of intimidation and annoyance**

<b>Section of TUO</b>	<b>Existing / New Offence</b>	<b>Nature of the Offence</b>	<b>Proposed Penalty</b>
5(5)	existing	Any person who is an officer, or who acts as an officer, or who takes any part in the management or administration, of a trade union that is not registered under TUO.	A fine at level 5 and imprisonment for 3 years on conviction on indictment.
56(4)	existing	Any registered trade union, or any person acting for or on behalf of or in the name of a trade union with the consent of the trade union, takes any part in the affairs or business of a registered trade union federation, but such trade union is not a properly constituted member of the registered trade union federation.	
17(6)	new (for bullet 1)  existing (for bullets 2 and 3)	Any person who: - has been convicted of any offence endangering national security acts as an officer; - has been convicted of any offence specified in existing Schedule 1 (i.e. fraud, dishonesty, extortion and membership of a triad society) without the consent of the CE in Council acts as an officer; or - acts as an officer in contravention of other requirements under section 17 of TUO.	

Section of TUO	Existing / New Offence	Nature of the Offence	Proposed Penalty
46	existing	Any one or more persons attend at or near a place where a person works or carries on business in such numbers, or otherwise in such manner, as to be calculated to intimidate any person in that place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace.	A fine at level 4 and imprisonment for 2 years on summary conviction; or  A fine at level 6 and imprisonment for 5 years on conviction on indictment.
47(1A)	existing	Any person who with a view to compelling any person to abstain from doing or to do any act that such other person has a legal right to do or abstain from doing, wrongfully and without legal authority uses violence to or intimidates such other person or the person's spouse or children of such person, or injures the person's property; persistently follows such other person about from place to place, etc.	

**V. Offences in relation to non-compliance with the notice issued by the Registrar and obstruction of the exercise of statutory powers and functions of the public officer**

<b>Section of TUO</b>	<b>Existing / New Offence</b>	<b>Nature of the Offence</b>	<b>Proposed Penalty</b>
52(2)	existing (for bullet 1)  new (for bullet 2)	Any registered trade union or any officer that:  - fails to comply with the notice issued by the Registrar requiring the trade union or officer to comply with the specified rules of the trade union; or  - fails to comply with the notice issued by the Registrar requiring the trade union or officer not to engage in an act inconsistent with any objects or specified rules of the trade union.	A fine at level 4 and imprisonment for 3 months on summary conviction; or  A fine at level 6 and imprisonment for 6 months on conviction on indictment.
45(7A)	new	Any registered trade union which fails to cease its affiliation with an organization established in an external place in accordance with the notice issued by the Registrar.	A fine at level 6 and imprisonment for 6 months on summary conviction; or
45AA(7)	new	A trade union officer who has served as an office-bearer of an unaffiliated organization established in an external place, fails to cease holding office of the local trade union in accordance with the notice issued by the Registrar.	A fine of \$200,000 and imprisonment for 1 year on conviction on indictment.
12C(10)	new	Any person who obstructs or prevents the manager (appointed by the Registrar under section 12B(1)) in performing the manager's functions.	
51G(3)	new	Any person who obstructs or	

Section of TUO	Existing / New Offence	Nature of the Offence	Proposed Penalty
and 51H(3)		prevents the Registrar or authorized officer from entering the premises of the trade union and performing his functions.	



**VI. Offences in relation to the production of false documents or objects; or failure to provide information or documents required by the Registrar or his authorized person, etc.**

<b>Section of TUO</b>	<b>Existing / New Offence</b>	<b>Nature of the Offence</b>	<b>Proposed Penalty</b>
20A(4)	existing	Any officer of a registered trade union, or any person on its behalf, knowing that a seal falsely purports to be the seal of the trade union, uses or authorizes the use of the seal.	A fine at level 4 and imprisonment for 3 months on summary conviction.
50(1)	existing	Any person who, with intent to mislead or defraud, circulates false copies of rules; or uses any sign, seal or stationery of any unregistered trade union on pretence that such trade union is registered.	A fine at level 6 and imprisonment for 6 months on summary conviction; or
50A(1) and (2)	new	Any person who furnishes to the Registrar any document or information that the person knows or has reason to believe to be false or misleading; or causes or procures such document or information to be furnished; or signs any document or information furnished to the Registrar knowing / having reason to believe that it contains any false or misleading statement.	A fine of \$200,000 and imprisonment for 1 year on conviction on indictment.
51C(4)	new	Any registered trade union and / or its officers under inquiry and / or any other person whom the Registrar reasonably believes to be in possession of document or information relevant to the inquiry that fails to provide information and documents in accordance with the requirements specified by the Registrar.	

Section of TUO	Existing / New Offence	Nature of the Offence	Proposed Penalty
51F(1)	new	Any person who destroys, falsifies, conceals or disposes of, or causes or permits the destruction, falsification, concealment or disposal of, a document or information that the person is required to produce under Part VIIIA of TUO.	

## 2. Interpretation

In this Ordinance, unless the context otherwise requires—

**branch** (分會) means any number of members of a trade union who have in accordance with the constitution of the trade union appointed their own management committee but who are under the control of the executive committee of such trade union and are bound by the constitution of the trade union to contribute to its funds; (*Added 15 of 1971 s. 3*)

**electoral fund** (選舉經費) means a fund established under section 33A; (*Added 47 of 1988 s. 2*)

**employee** (僱員) means any person who has entered into or works under, or, in the case of a contract which has been terminated, worked under, a contract with an employer, whether the contract is by way of manual labour, clerical work or otherwise, is express or implied, oral or in writing, and whether it is a contract of service or apprenticeship or a contract personally to execute any work or labour; (*Replaced 15 of 1971 s. 3*)

**executive** (理事會、理事) means the body to which the management of the affairs of a trade union or a branch of a trade union or a trade union federation, as the case may be, is entrusted by the members and also means any person for the time being carrying out the functions of a president, chairman, vice-chairman, secretary or treasurer thereof;

**funds** (經費), in relation to a trade union or a branch of a trade union, or a trade union federation, includes money, whether in an electoral or welfare fund or not, and all other property or assets, whether real or personal, held, collected, received or controlled by or on behalf of the trade union or the branch of the trade union or the trade union federation, as the case may be; (*Amended 47 of 1988 s. 2; L.N. 16 of 1991*)

**injury** (損害), for the purposes of Part VII, includes injury to a person in respect of his business, occupation, employment or other source of income, and includes any actionable wrong;

**intimidation** (恐嚇), for the purposes of Part VII, means to cause in the mind of a person a reasonable apprehension of injury to himself or to any member of his family or to any of his dependants or of violence or damage to any person or property;

**lock-out** (閉廠) means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aiding another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

**officer** (職員), in relation to a trade union or a branch of a trade union or a trade union federation, includes any member of the executive thereof, but does not include an auditor;

**paid staff** (受薪人員) in relation to a trade union or a branch of a trade union or a trade union federation, means a clerk or other person appointed by, and acting under the instructions of, the executive thereof and paid from the funds of the trade union or the branch of the trade union or the trade union federation, as the case may be; (*Added 18 of 1977 s. 2*)

**register** (登記冊) means the register of trade unions to be maintained by the Registrar in accordance with section 4;

**registered** (已登記、登記) means registered under this Ordinance;

**registered office** (已登記辦事處), in relation to a trade union or a branch of a trade union or a trade union federation, means the office, if any, which is registered under this Ordinance as the head office thereof;

**Registrar** (局長) means the Registrar of Trade Unions appointed under section 3;

**strike** (罷工) means the cessation of work by a body of persons employed acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons employed, to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or the employer of any other person or body of persons, or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment;

**strike benefit** (罷工利益) means any financial or other benefit given by a trade union to any member of the trade union in consideration of a strike or lock-out;

**trade dispute** (勞資糾紛) means any dispute or difference between employers and employees, or between employees and employees, connected with the employment or non-employment, or the terms of employment, or with the conditions of or affecting employment, of any person; (*Amended 15 of 1971 s. 3*)

**trade union** (職工會) means any combination the principal objects of which are under its constitution the regulating of relations between employees and employers, or between employees and employees, or between employers and employers, whether such combination would or would not, if this Ordinance had not been enacted, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade; (*Amended 15 of 1971 s. 3*)

**trade union federation** (職工會聯會) means a trade union which is wholly an association or combination of other registered trade unions;

**voting member** (有表決權會員) means any member of a registered trade union entitled to vote for any purposes under the rules of the trade union;

**welfare fund** (福利經費) means trade union funds allocated or set apart for payment to members or the families of members of the trade union of any assurance or benefit, other than strike benefit, or for the provision for such members or such families of educational, recreational or medical facilities.

### 3. **Appointment of Registrar, etc.**

The Chief Executive shall appoint such person as he may think fit to be Registrar of Trade Unions and may appoint a deputy registrar, assistant registrars and such other officers as may from time to time appear to him necessary for carrying out the purposes of this Ordinance.

(*Amended 56 of 2000 s. 3*)

### 5. **Trade unions to be registered, etc.**

- (1) Every trade union shall be registered under this Ordinance.
- (2) An application for the registration of a trade union shall be made to the Registrar in the prescribed form within 30 days of the establishment thereof.
- (3) Every such application shall be signed by not less than 7 voting members of the trade union, any of whom may be officers thereof. (*Amended 15 of 1971 s. 4*)
- (4) Upon receipt of any such application in the prescribed form, the Registrar shall issue to the trade union a certificate in the prescribed form acknowledging receipt of such application, and every such certificate or a copy thereof certified under the hand of the Registrar shall, until the contrary is proved, be received in evidence as proof of the facts specified therein.

- (5) Any person who is an officer, or who acts as an officer, or who takes any part in the management or administration, of a trade union that is not registered under this Ordinance shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 6 months: (*Amended E.R. 3 of 2020*)

Provided that this subsection shall not apply to any person who is an officer, or who acts as an officer, or who takes any part in the management or administration, of any such trade union so long as—

- (a) an application for the registration of the trade union has been made in accordance with this section and the Registrar has not refused to register such trade union; and
- (b) the only acts performed by such person, and the only acts performed by or on behalf of the trade union, are acts for the purposes of, or in connection with, its establishment and its registration under this Ordinance.

## **6. Registration**

- (1) Whenever he has registered a trade union, the Registrar shall issue to the trade union a certificate of registration in the prescribed form, and such certificate, or a copy thereof certified under his hand shall, unless proved to have been cancelled, be conclusive evidence for all purposes that such trade union has been duly registered under this Ordinance: (*Amended 15 of 1971 s. 5*)

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

- (2) The Registrar may, before registering a trade union, direct that the applicants shall produce any documents or provide any such particulars concerning such trade union as he may require in order to satisfy himself that such trade union is entitled to registration under this Ordinance.

## **7. Refusal of registration**

- (1) The Registrar may in his discretion refuse to register a trade union if—
- (a) any of the provisions of this Ordinance or the regulations have not been complied with; or
  - (b) any of the purposes of such trade union is unlawful; or

- (c) the name under which it is proposed to register the trade union is identical with that by which any other trade union, whether existing or having ceased to exist, has been registered, or so nearly resembles such name as to be likely to deceive the public or the members of such trade union or of any other existing trade union; or
  - (d) he is of the opinion that the trade union applying for registration is substantially a trade union the certificate of registration of which has been cancelled under section 10(1); but the Registrar shall not refuse registration solely on the ground that the membership of the trade union applying for registration includes members of the trade union the certificate of registration of which has been cancelled. *(Added 15 of 1971 s. 6)*
- (2) Where the Registrar refuses to register a trade union, he shall forthwith serve upon the applicants for registration thereof a notice in writing to that effect and shall specify therein the ground for his refusal.

#### **8. Appeals against refusal of Registrar to register trade union**

Where the Registrar refuses to register a trade union, any of the applicants for the registration thereof who considers that the refusal of the Registrar to register the trade union on the ground specified in the notice of refusal to register was wrong in that, as the case may be—

- (a) the provisions of this Ordinance and the regulations had been complied with;
- (b) the purposes of the trade union were not unlawful;
- (c) the name under which registration of the trade union was sought was not such a name as is specified in section 7(1)(c);
- (d) the trade union was not such a trade union as is specified in section 7(1)(d), *(Added 15 of 1971 s. 7)*

may, within 28 days after the service of such notice, appeal to the Court of First Instance, which may, if it finds that the refusal of the Registrar to register the trade union was wrong as aforesaid, so declare and thereupon the Registrar shall register the trade union, but, save as hereinbefore provided, the appeal shall be dismissed.

*(Amended 15 of 1971 s. 7; 25 of 1998 s. 2)*

#### **10. Cancellation of registration**

- (1) The registration of a trade union shall not be cancelled otherwise than by order of the Registrar and in the following cases—
  - (a) at the request of the trade union, to be verified in such manner as the Registrar may require; or
  - (b) where—
    - (i) the certificate of registration of the trade union has been obtained by fraud or mistake; or
    - (ii) the registration of the trade union has become void under the proviso to section 6(1); or
    - (iii) the trade union is being used, or has at any time since registration been used, for any unlawful purpose or for any purpose inconsistent with its objects or rules; or
    - (iv) the trade union has wilfully and after notice in writing from the Registrar contravened this Ordinance, or has allowed any rule which is inconsistent with this Ordinance to continue in force, or has rescinded any rule providing for any matter for which provision is required by section 18; or
    - (v) the funds of the trade union have been expended in an unlawful manner or for an unlawful purpose or for any purpose not authorized by the rules of the trade union; or
    - (vi) any funds of the trade union that have been utilized for any purpose connected with the trade union, or any members thereof, have wilfully and after notice in writing from the Registrar requiring the same to be entered in the accounts of such trade union been omitted from the accounts thereof; or
    - (vii) the trade union has ceased to exist.
- (2) Where an appeal has been duly brought under section 12(1), the Registrar shall not cancel the registration of the trade union before the appeal has been determined.

## **11. Notice of cancellation**

Before cancelling the registration of a registered trade union, the Registrar shall give to the trade union not less than 2 months' previous notice in writing specifying the ground upon which he intends to cancel its registration:

Provided that no such notice shall be required—



- (a) where the trade union has ceased to exist; or
- (b) where cancellation is at the request of the trade union.

**12. Appeals in relation to cancellation by Registrar of registration of trade union**

(1) Any voting member of a trade union that has received from the Registrar notice in writing of his intention to cancel its registration who considers that the Registrar is not entitled to cancel its registration on the ground specified in the notice in that, as the case may be—

- (a) the certificate of registration of the trade union was not obtained by fraud or mistake;
- (b) the registration of the trade union has not become void under the proviso to section 6(1);
- (c) the trade union was not being used, nor has at any time since its registration been used, for any unlawful purpose or for any purpose inconsistent with its objects or rules;
- (d) the trade union has not wilfully and after notice in writing from the Registrar contravened this Ordinance nor allowed any rule which is inconsistent with this Ordinance to continue in force nor rescinded any rule providing for any matter for which provision is required by section 18;
- (e) the funds of the trade union have not been expended in any way specified in section 10(1)(b)(v);
- (f) any such funds as are specified in section 10(1)(b)(vi) have not wilfully and after notice in writing from the Registrar requiring the same to be entered in the accounts of the trade union been omitted from such accounts,

may, within 28 days after the service of such notice upon the trade union, appeal to the Court of First Instance, which may, if it finds that the Registrar is not entitled as aforesaid to cancel the registration of the trade union, so declare, but, save as hereinbefore provided, the appeal shall be dismissed. (*Amended 15 of 1971 s. 8; 25 of 1998 s. 2*)

(2) Any voting member of a trade union the registration of which has been cancelled who considers that the cancellation of its registration was wrong in that, as the case may be—

- (a) notice was not given by the Registrar in accordance with section 11;
- (b) the trade union had not requested cancellation of its registration;

(c) the trade union had not ceased to exist, may, within 14 days after the cancellation of its registration, appeal to the Court of First Instance, which may, if it finds that the cancellation of the registration of the trade union was wrong as aforesaid, so declare and thereupon the Registrar shall restore the registration of the trade union, but, save as hereinbefore provided, the appeal shall be dismissed. (*Amended 15 of 1971 s. 8; 25 of 1998 s. 2*)

#### **14. Effect of cancellation of registration**

- (1) Save where, under subsection (2), the cancellation of the registration of a trade union does not take effect immediately in which case this subsection shall apply when the cancellation takes effect for the purposes thereof, a trade union whose registration has been cancelled under this Ordinance shall in addition to any other disability—
  - (a) cease to exist as a corporate body, and the Registrar may, notwithstanding anything contained in the rules of such trade union, forthwith appoint one or more persons to be liquidators thereof;
  - (b) cease to enjoy any of the rights, immunities or privileges of a registered trade union, but without prejudice to any liability incurred by the trade union, which may be enforced against the trade union or its assets, whether such liability is incurred before, on or after the date of the cancellation of registration;
  - (c) forthwith be dissolved and no person shall, except for the purpose of defending proceedings against the trade union or of dissolving it and disposing of its funds in accordance with the rules thereof and the provisions of this Ordinance, take any part in its management or organization or act or purport to act on behalf of the trade union or as an officer thereof.
- (2) Where the registration of a trade union is cancelled on the ground that it had requested cancellation of the registration or had ceased to exist, the cancellation shall not take effect for the purposes of subsection (1) or for the purposes of the Societies Ordinance (Cap. 151) prior to the expiry of the period limited by section 12(2) for the bringing of an appeal and then—
  - (a) if no appeal is brought under section 12(2) within that period, the cancellation shall take effect for those purposes at the commencement of the day following the day on which that period expired; and

- (b) if an appeal is so brought within that period, the cancellation shall not take effect for the purposes of subsection (1) or for the purposes of the Societies Ordinance (Cap. 151) prior to the determination of the appeal, but, if the appeal is dismissed, shall take effect for those purposes on the determination thereof.

**15. Power of liquidator and Registrar in winding up of affairs of a trade union**

- (1) Where a liquidator is appointed under section 14, all of the property of whatsoever description (including books and documents) belonging to the trade union, or held by trustees on its behalf, shall vest in the liquidator by his official name with effect from the date of his appointment, and the liquidator, after giving such indemnity, if any, as the Registrar may direct, may—
  - (a) bring or defend in his official name any action or other legal proceeding that relates to the property of the trade union or is necessary to bring or defend for the purpose of effectually winding up the trade union and recovering its property;
  - (b) take possession of any books, documents or property of whatsoever description belonging to the trade union;
  - (c) sell the real and personal property and choses in action of the trade union by public auction or private contract, with power to transfer the whole thereof to any person or company or to sell the same in parcels;
  - (d) appoint a solicitor or agent to assist him in his duties;
  - (e) pay any creditors or classes of creditors of the trade union in full or in part;
  - (f) compromise any debts or liabilities of the trade union and any liabilities capable of resulting in debts and any claims, present or future, certain or contingent, ascertained or sounding only in damages, that subsist, or are supposed to subsist, between the trade union and any member thereof or any other debtor or person apprehending liability to the trade union and any questions in any way relating to or affecting the assets or winding up of the affairs of the trade union on such terms as may be agreed, and take any security for the discharge of any such debt, liability or claim and give complete discharge in respect thereof;

- (g) make any compromise with creditors of the trade union or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages, against the trade union or whereby the trade union may be rendered liable; and
  - (h) prepare a scheme of distribution of the assets of the trade union available for distribution and, subject to the approval of the same by the Registrar, distribute the assets accordingly.
- (2) The exercise by the liquidator of any of the powers conferred by this section shall be subject to the control of the Registrar, and any creditor or member of the trade union may apply to the Registrar with respect to any exercise or proposed exercise of any of those powers.
- (3) Without prejudice to the generality of subsection (2), the Registrar may—
  - (a) rescind or vary any order made by a liquidator or substitute therefor a new order;
  - (b) remove a liquidator from office;
  - (c) make an order upon the assets of the trade union for the remuneration of any liquidator;
  - (d) call for and inspect the books, documents or assets of a trade union;
  - (e) by order in writing limit or restrict the powers of a liquidator;
  - (f) at any time require accounts to be rendered to him by a liquidator;
  - (g) refer any subject of dispute between a liquidator and any third party to arbitration, subject to the consent in writing of such third party;
  - (h) summon such meetings of the members of the trade union as may appear to him convenient for the purpose of winding up the affairs of the trade union.
- (4) A liquidator appointed under section 14 or the Registrar shall, in so far as such powers are necessary for the carrying out of the purposes of this section, have power to summon and enforce the attendance of parties and witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a magistrate.

**16. Closure of liquidation on appointment of liquidator by Registrar**

Where a liquidator has been appointed under section 14 for the liquidation of a registered trade union the registration of which has been cancelled, then, notwithstanding anything contained in the rules of the trade union—

- (a) all of the funds (including welfare funds, if any) and assets of what description soever belonging to the trade union shall be realized and converted into money and shall be applied first to the cost of the liquidation, then to the discharge of the liabilities of the trade union, then to the payment of share capital, if any, and then in such manner as may be provided by the rules of the trade union or, failing provision therefor, in such manner as the Registrar may direct;
- (b) when the liquidation of the trade union has been closed and any creditor thereof has not claimed or received what is due to him under the scheme of distribution, notice of the closing of the liquidation shall be published in the Gazette, and all claims against the funds of the trade union shall be prescribed when 2 years shall have elapsed from the date of such publication; (*Amended L.N. 20 of 1979*)
- (c) any surplus remaining after the application of the funds to the purposes specified in paragraph (a) and the payment of any claims under paragraph (b) shall be paid into the general revenue of Hong Kong. (*Amended 47 of 1988 s. 3*)

**17. Officers and members of trade unions**

- (1) Subject to subsection (1A), no person shall be a member of a registered trade union unless he is ordinarily resident in Hong Kong and engaged or employed in a trade, industry or occupation with which the trade union is directly concerned. (*Replaced 18 of 1977 s. 3*)
- (1A) Any person who has lawfully been a member of a registered trade union may, upon his retirement on account of age or ill-health from the trade, industry or occupation in which he was engaged or employed and by virtue of which he was a member of the trade union, remain a member thereof, but shall not be a voting member. (*Added 18 of 1977 s. 3*)

- (1B) No person shall be refused membership of a trade union solely on the ground that he is casually or seasonally engaged or employed in the trade, industry or occupation with which the trade union is directly concerned. *(Added 18 of 1977 s. 3)*
- (2) No person shall, without the consent in writing of the Registrar, be an officer of a registered trade union unless he is ordinarily resident in Hong Kong and is or has been engaged or employed in a trade, industry or occupation with which the trade union is directly concerned. *(Replaced 18 of 1977 s. 3. Amended 102 of 1997 s. 2; 135 of 1997 s. 5)*
- (3) Save with the consent of the Chief Executive in Council, no person who has been convicted of any offence specified in Schedule 1 shall, within the period of 5 years from the date of his conviction or discharge from prison, whichever is the later, be an officer of a registered trade union. *(Replaced 15 of 1971 s. 9. Amended 56 of 2000 s. 3)*
- (3A) The Chief Executive in Council may, by order published in the Gazette, amend Schedule 1. *(Added 15 of 1971 s. 9. Amended 56 of 2000 s. 3)*
- (4) A person under the age of 16 years may be a member of a registered trade union, unless provision is made in the rules thereof to the contrary, but shall not be a voting member or a member of the executive of a registered trade union.
- (5) A person under the age of 18 years, but of or over the age of 16 years, may be a member of a registered trade union, unless provision is made in the rules thereof to the contrary, and may, subject to the rules of the trade union, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the executive of a registered trade union. *(Amended 102 of 1997 s. 2)*
- (6) Any person who is an officer of a registered trade union in contravention of this section shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 6 months. *(Amended E.R. 3 of 2020)*

**17A. Powers of Registrar in respect of union elections and membership**

- (1) The Registrar may, if he is of the opinion that—
  - (a) a person is an officer of a registered trade union in contravention of section 17 or any of the rules of the trade union;

- (b) a candidate for election as an officer of a registered trade union is ineligible to be so elected by virtue of section 17 or any of the rules of the trade union; or
- (c) a person is a member of a registered trade union in contravention of section 17 or any of the rules of the trade union,

serve upon such officer, candidate or person, and upon the trade union, a notice in writing requiring the officer, candidate or person to cease holding office or to cease being a candidate for election as an officer or to cease being a member of the trade union.

- (2) If the officer, candidate or person fails within 14 days of service to satisfy the Registrar that he has complied with a notice under subsection (1) the Court of First Instance may, on the application of the Registrar— (*Amended 25 of 1998 s. 2*)
  - (a) grant an injunction prohibiting such officer, candidate or person from holding office or being a candidate for election as an officer or being a member of the trade union;
  - (b) make a declaration that such officer, candidate or person no longer holds office in the trade union or is no longer a candidate for election as an officer or a member of the trade union;
  - (c) make an order directing the trade union to hold, in such manner as the court may direct, a fresh election if an officer has ceased to hold office or a candidate for election as an officer has ceased to be a candidate by virtue of this section.

(*Added 15 of 1971 s. 10*)

## **18. Rules**

- (1) Every registered trade union shall have, and every trade union which is applying for registration shall make, rules that, in the opinion of the Registrar, provide adequately for each and all of the matters specified in Schedule 2.
- (2) (a) Where application is being made for the registration of a trade union, the rules of the trade union shall be sent to the Registrar, in the manner prescribed by regulations, at the same time as the application for registration.
- (b) If the Registrar is satisfied that— (*Amended 135 of 1997 s. 6*)
  - (i) such rules have been duly made;

- (ii) such rules make adequate provision for each and all of the matters specified in Schedule 2;
- (iii) no such rule is inconsistent with any of the provisions of this Ordinance or the regulations or with any other such rule or with the principal objects of the trade union or is contradictory, imprecise or incomprehensible; and
- (iv) where any such rule relates to the taking of decisions by secret ballot, every voting member of the trade union has an equal right and, so far as practicable, a reasonable opportunity of voting and that the secrecy of the ballot is ensured,

he shall register such rules, but if he is not so satisfied he shall refuse to register the rules. (*Amended 135 of 1997 s. 6*)

- (3) No alteration or amendment of or addition to any of the registered rules of a registered trade union shall be made the effect of which is that the rules no longer provide adequately for each and all of the matters specified in Schedule 2.
- (4) Where any registered rule of a registered trade union has been altered or amended or any rule has been added to the registered rules thereof and where the registered rules of a registered trade union have been wholly rescinded or otherwise cancelled and replaced by new rules, the rule so amended or altered or the rule so added or the new rules, as the case may be, shall, within 30 days of the making thereof, be sent to the Registrar in the manner prescribed by regulations.
- (5) If the Registrar is satisfied that— (*Amended 135 of 1997 s. 6*)
  - (a) such alteration, amendment or addition has, or such new rules have, been duly made; and
  - (b) in the case of an altered or amended rule or a rule which has been so added—
    - (i) the effect of the alteration, amendment or addition is not such that the rules of the trade union no longer make adequate provision for each and all of the matters specified in Schedule 2;
    - (ii) the altered or amended rule or the rule so added is not inconsistent with any of the provisions of this Ordinance or the regulations or with any other rule of the trade union or with the principal objects of the trade union or contradictory, imprecise or incomprehensible;



- (iii) where the altered or amended rule or the rule so added relates to the taking of decisions by secret ballot, every voting member of the trade union has an equal right and, so far as practicable, an equal opportunity of voting and that the secrecy of the ballot is ensured; and
  - (iv) where the rule has been amended or altered or the rule has been added for the purpose of compliance by such trade union with the provisions of subsection (1), the rule, either by itself or in conjunction with other registered rules, makes adequate provision for the matter specified in Schedule 2 to which it relates; or
- (c) in the case of new rules—
- (i) such rules make adequate provision for each and all of the matters specified in Schedule 2;
  - (ii) no such rule is inconsistent with any of the provisions of this Ordinance or the regulations or with any other such rule or with the principal objects of the trade union or is contradictory, imprecise or incomprehensible; and
  - (iii) where any such rule relates to the taking of decisions by secret ballot, every voting member of the trade union has an equal right and, so far as practicable, an equal opportunity of voting and that the secrecy of the ballot is ensured,

he shall register the altered or amended rule or the rule so added or the new rules, as the case may be, but if he is not so satisfied he shall refuse to register the rule or rules. (*Amended 135 of 1997 s. 6*)

- (6) No new rule, no alteration or amendment of any registered rule and no rule added to the registered rules of a registered trade union shall take effect until the same has been registered under this section.
- (7) If a registered trade union contravenes subsection (1), the trade union shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. (*Amended E.R. 3 of 2020*)
- (8) In the event of a contravention of subsection (3), (4) or (6), the registered trade union shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. (*Amended E.R. 3 of 2020*)

(*Amended 15 of 1971 s. 11*)

## **18A. Refusal by Registrar to register rules under section 18**

- (1) Where the Registrar refuses to register the rules of a trade union sent to him under section 18(2)(a) in connection with an application for registration of the trade union he shall, upon such refusal, serve on the applicants for registration of the trade union a notice in writing to that effect and shall specify in the notice the ground of his refusal.
- (2) Where the Registrar refuses to register a rule or rules in relation to a registered trade union sent to him under section 18(4) he shall, upon such refusal, serve on the union a notice in writing to that effect and shall specify in the notice the ground of his refusal.
- (3) Any person who is aggrieved by the refusal of the Registrar—
  - (a) under section 18(2)(b) to register the rules of a trade union sent to him under section 18(2)(a); or
  - (b) under section 18(5) to register any rule of a registered trade union sent to him under section 18(4),may, at any time before the expiry of 28 days after service by the Registrar of the notice required under subsection (1) or (2), as the case may be, appeal to the Court of First Instance against such refusal.
- (4) On the hearing of an appeal under subsection (3) the Court of First Instance may, if it finds that the requirements of section 18(2)(b) or (5), as the case may be, have been complied with, direct the Registrar to register the rule or rules under that subsection, but unless the court so finds it shall dismiss the appeal.

*(Added 135 of 1997 s. 7)*

## **20. Registered office**

- (1) Every registered trade union shall have a registered office situate in Hong Kong and a postal address to which all communications and notices may be addressed. *(Amended 47 of 1988 s. 3)*
- (2) Notice of the situation of the registered office and of the postal address, and of any change therein, shall, within 2 weeks of the registration of the trade union or of such change, as the case may be, be given to the Registrar and shall be registered by him, and the trade union shall not be deemed to have complied with this Ordinance until such notice has been given.
- (3) Any registered trade union that—

- (a) operates without having a registered office or without giving notice of the situation of its registered office; or
- (b) operates at any place to which its registered office may have been removed without having given notice of the change in the situation thereof to the Registrar; or
- (c) operates without having a postal address or without giving notice of its postal address; or
- (d) fails to give notice to the Registrar of a change in its postal address,

shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. *(Amended E.R. 3 of 2020)*

## **20A. Seal**

- (1) A registered trade union shall have a common seal bearing its registered name in legible characters.
- (2) The common seal of a trade union shall only be used by the authority of the executive of the union and every instrument to which the common seal shall be affixed shall be signed by an officer or a member appointed by the executive for that purpose and countersigned by the chairman, treasurer or secretary.
- (3) A trade union which fails to comply with subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. *(Amended E.R. 3 of 2020)*
- (4) An officer of a trade union, or any person on its behalf, who uses or authorizes the use of any seal which falsely purports to be the seal of the trade union shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. *(Amended E.R. 3 of 2020)*

*(Added 15 of 1971 s. 12)*

## **21. Branches and various undertakings of trade unions to be reported to the Registrar**

- (1) Notification of—
  - (a) every branch of a registered trade union;
  - (b) every business or charitable, cultural, educational or medical undertaking which is operated by or in the name of a trade union; and
  - (c) any change in the address of such branch, or business or charitable, cultural, educational or medical undertaking,
 shall be made to the Registrar in writing, together with such particulars as the Registrar may require, by the trade union

within 14 days after the establishment of or change of address of such branch, or business or charitable, cultural, educational or medical undertaking. *(Replaced 15 of 1971 s. 13)*

- (2) If a branch of a registered trade union or such a business or charitable, cultural, educational or medical undertaking as is mentioned in subsection (1) ceases after notification to the Registrar, to exist or to be operated by or in the name of a registered trade union, the trade union shall report the fact to the Registrar in writing within 30 days thereafter.
- (3) A registered trade union that contravenes this section shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. *(Amended E.R. 3 of 2020)*

## **22. Notification of officers, etc.**

- (1) A notice giving the names (including any alias) of all officers and their titles shall be prominently exhibited in the registered office of every registered trade union and in every office of any branch of a registered trade union.
- (2) Notice of every change of officers or of the title of any officer of a registered trade union shall, within 14 days thereof, be sent by the trade union to the Registrar.
- (3) The Registrar may require a registered trade union to furnish, in respect of any officer specified in any notice given under subsection (2), such particulars as he may consider necessary, and such trade union shall furnish such particulars within 14 days of the date of such request.
- (4) A registered trade union that contravenes subsection (2) or fails to furnish, within the period specified therein, any particulars which the Registrar may have required under subsection (3) shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. *(Amended E.R. 3 of 2020)*

## **23. Change of name**

- (1) A registered trade union may agree to change its name by secret ballot of a majority of its voting members present at a general meeting or of a majority of members' representatives present at a general meeting where the rules of the trade union allow voting by members' representatives. *(Amended 102 of 1997 s. 3)*
- (2) Where a registered trade union has so agreed to change its name, application for the registration of the change of name shall be made to the Registrar within 14 days thereof.

- (3) If—
  - (a) the proposed name is identical with that under which any other trade union, whether existing or not, is or has been registered or so nearly resembles such name as to be likely to deceive the public or the members of such trade union or of any other trade union; or
  - (b) the provisions of this Ordinance in respect of change of name have not been complied with,

the Registrar shall refuse to register the change of name.
- (4) Save as provided in subsection (3), the Registrar shall register the change of name.
- (5) Any person who considers that the Registrar was wrong in refusing to register a change of the name of any registered trade union in that, as the case may be—
  - (a) the proposed name was not such a name as is specified in subsection (3)(a);
  - (b) the provisions of this Ordinance in respect of change of name had been complied with,

may, within 14 days after the refusal of the Registrar to register the change of name, appeal to the Court of First Instance, which may, if it finds that the refusal of the Registrar to register the change of name was wrong as aforesaid, so declare and thereupon the Registrar shall register the change of name, but, save as hereinbefore provided, the appeal shall be dismissed. (*Amended 15 of 1971 s. 14; 25 of 1998 s. 2*)
- (6) No change of name of a registered trade union shall—
  - (a) take effect until the same has been registered under this section;
  - (b) affect any right or obligation of the trade union or any member thereof.
- (7) Where, in respect of any registered trade union that has changed its name, any proceeding or cause of action was pending or existed at the time of the change of name, the same may be continued or enforced by or against the trade union as it might have been continued or enforced by or against the trade union if the change of name had not taken place.
- (8) A registered trade union which fails to comply with subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. (*Added 15 of 1971 s. 14. Amended E.R. 3 of 2020*)

## **25. Application for consent to amalgamation**

- (1) Where 2 or more registered trade unions desire to amalgamate as one trade union, an application shall be made to the Registrar for his consent to the amalgamation.
- (2) Every application under subsection (1) shall be made in the prescribed form and shall be signed by the chairman and one other officer of each trade union and shall be accompanied by 3 copies of the proposed rules of the trade union to be formed by the intended amalgamation.

**27. Grounds for refusal to consent to amalgamation and procedure in such cases**

- (1) The Registrar may refuse to give his consent to an intended amalgamation of registered trade unions where—
  - (a) any of the provisions of this Ordinance in respect of the making of the application for his consent have not been complied with;
  - (b) the proposed rules of the trade union to be formed by the amalgamation will not make adequate provision for each and all of the matters specified in Schedule 2;
  - (c) any of the purposes of such trade union will be unlawful;
  - (d) the name by which it is proposed that such trade union will be known is identical with that under which any other trade union, whether existing or not, is or has been registered or so nearly resembles such name as to be likely to deceive the public or the members of such trade union or of any other trade union.
- (2) Where, under subsection (1) of this section or section 28(2), the Registrar refuses to give his consent to the amalgamation of any registered trade unions, he shall, in writing, notify the trade unions of his refusal and shall specify therein the ground for his refusal.
- (3) Any person who considers that the Registrar was wrong in refusing under subsection (1) to give his consent to an intended amalgamation of registered trade unions on the ground specified in the notice given pursuant to subsection (2) in that, as the case may be—
  - (a) the provisions of this Ordinance in respect of the making of the application for his consent had been complied with;
  - (b) the proposed rules of the trade union to be formed by the amalgamation would have made adequate provision for each and all of the matters specified in Schedule 2;

- (c) none of the purposes of such trade union will be unlawful;
- (d) the name by which it was proposed that such trade union would be known was not such a name as is specified in subsection (1)(d),

may, within 14 days after the Registrar has given such notice, appeal to the Court of First Instance, which may, if it finds that the refusal of the Registrar to give his consent to the intended amalgamation was wrong as aforesaid, so declare and thereupon the Registrar shall, subject to the provisions of section 28, give his consent to the amalgamation, but, save as hereinbefore provided, the appeal shall be dismissed. (*Amended 25 of 1998 s. 2*)

(*Amended 15 of 1971 s. 15*)

**28. Application for consent to be referred to Chief Executive in certain cases**

- (1) Where the Registrar has received an application under section 25(1) for his consent to the amalgamation of any registered trade unions and any of such trade unions is a member of any kind of a trade union or other organization established outside Hong Kong, he shall, if, but for the provisions of this section, he would have given his consent to the amalgamation, refer such application to the Chief Executive. (*Amended 47 of 1988 s. 3*)
- (2) Where, under subsection (1), the Registrar has referred an application to the Chief Executive, he shall refuse to give his consent to the amalgamation unless the Chief Executive consents to the same.

(*Amended 72 of 1973 s. 2; 56 of 2000 s. 3*)

**29. Notice in writing to be given of consent to amalgamation, and saving of powers of Registrar in relation to registration of trade union formed by amalgamation**

- (1) Where the Registrar gives his consent to the amalgamation of any registered trade unions, he shall send to each of the trade unions a notice in writing thereof and shall supply to each of the trade unions such additional copies of such notice as may be necessary to enable the trade union to comply with section 30(1)(a).

- (2) The giving by the Registrar of his consent to the amalgamation of any registered trade unions shall not prejudice or affect in any way the powers vested in him by this Ordinance to refuse to register the trade union formed by such amalgamation or the exercise of any powers so vested in him in connection with the registration thereof.

**30. Procedure for amalgamation, etc.**

- (1) No registered trade unions shall be amalgamated as one trade union unless—
  - (a) the notice in writing of the consent of the Registrar to the amalgamation has been posted at the registered office of each of the trade unions party to the amalgamation and in every branch thereof for a period of not less than 14 days; and
  - (b) in the case of each such trade union, on a vote being taken in secret ballot, the votes of at least 50% of the voting members thereof are recorded and of the votes recorded those in favour of the amalgamation exceed by not less than 20% those against the same. (*Amended 15 of 1971 s. 16*)
- (2) An amalgamation of registered trade unions may take place with or without any dissolution or division of the funds of the trade unions.

**31. Transfer of liabilities, etc. to trade union formed by amalgamation**

- (1) All deeds, bonds, agreements and instruments to which any registered trade union that is amalgamated with any other registered trade union was a party that are subsisting at the time of the amalgamation shall be of as full force and effect against or in favour of the trade union formed by the amalgamation as if, instead of such registered trade union, the trade union so formed had been named therein or had been a party thereto.
- (2) Where, in respect of any registered trade union that has amalgamated with any other registered trade union, any proceeding or cause of action was pending or existed at the time of the amalgamation, the same may be continued or enforced by or against the trade union formed by the amalgamation as it might have been continued or enforced by or against such registered trade union if the amalgamation had not taken place.



### **32. Notification of dissolution**

- (1) When a registered trade union is dissolved, notice of the dissolution thereof, signed by the secretary of the trade union and 7 persons who were voting members thereof at the date of the dissolution, shall, within 14 days after the dissolution, be sent to the Registrar by the trade union, and upon the registration by the Registrar of such dissolution, the trade union shall cease to be a body corporate.
- (2) A registered trade union that contravenes subsection (1) and every officer of a registered trade union, or other person, bound by the rules thereof to give or send the notice required by that subsection who fails to give or send the same shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. (*Amended E.R. 3 of 2020*)

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## **Part V**

### **Funds, Accounts and Returns**

#### **33. Application of funds**

- (1) The funds, other than the welfare and electoral funds (if any), of a registered trade union may, subject to the rules thereof and to the provisions of this Ordinance and the regulations, be expended only for the following purposes— (*Amended 47 of 1988 s. 4*)
  - (a) the payment to officers and paid staff of the trade union of salaries, allowances and expenses incurred in dealing with the affairs of the trade union; (*Amended 15 of 1971 s. 17; 18 of 1977 s. 4*)
  - (b) the payment of expenses for the administration of the trade union, including audit of the accounts of the funds thereof;
  - (c) the prosecution or defence of any legal proceeding to which the trade union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the trade union as such or any rights arising out of the relations of any member with his employer or with a person whom such member employs;

- (d) the conduct of trade disputes on behalf of the trade union or any member thereof;
  - (e) the compensation of members for loss arising out of trade disputes;
  - (f) the allocation of moneys for the provision and maintenance of a welfare fund;
  - (g) purchase of bonds, securities or property;
  - (h) payment of subscriptions, fees, contributions or donations to a registered trade union or other lawful association or combination established within Hong Kong; (*Amended 47 of 1988 s. 3*)
  - (i) the promotion of entertainments;
  - (j) subject to the approval of the Chief Executive, contributions or donations to a trade union or other similar organization established outside Hong Kong whether or not such registered trade union is affiliated therewith; (*Amended 15 of 1971 s. 17; 47 of 1988 s. 3; 102 of 1997 s. 4; 135 of 1997 s. 8*)
  - (k) the payment of fines imposed on the trade union for any offence of which it is convicted under this or any other Ordinance; (*Added 15 of 1971 s. 17*)
  - (l) any other purpose which the Chief Executive may approve. (*Replaced 15 of 1971 s. 17. Amended 102 of 1997 s. 4; 135 of 1997 s. 8*)
- (2) Without prejudice to section 49, a registered trade union that contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. (*Amended E.R. 3 of 2020*)

### **33A. Electoral fund**

- (1) If authorized by secret ballot of a majority of its voting members, a registered trade union may establish an electoral fund out of which may be paid—
- (a) expenses incurred directly or indirectly by a candidate or prospective candidate for election to a District Council or the Legislative Council;
  - (b) expenses for the holding of a meeting or the preparation and distribution of literature or documents in support of a candidate or prospective candidate for election to a District Council or the Legislative Council; and

- (c) expenses related to the registration of electors or the selection of a candidate for election to a District Council or the Legislative Council. (*Amended 8 of 1999 s. 89; 78 of 1999 s. 7*)
- (2) A registered trade union shall not compel a member to contribute to the electoral fund and the union shall not make contribution to the fund a condition for admission to the union or continuing as a member with full membership rights in the union.
- (3) A registered trade union shall not pay money out of an electoral fund until rules under paragraph (j)(iii) of Schedule 2 have been registered by the Registrar under section 18.
- (4) A registered trade union that contravenes this section commits an offence and is liable to a fine at level 1. (*Amended E.R. 3 of 2020*)

*(Added 47 of 1988 s. 5)*

**33B. Electoral expenses resolution**

- (1) Where no electoral fund is established under section 33A, a registered trade union, if authorized by secret ballot of a majority of its voting members present at a general meeting or of a majority of members' representatives present at a general meeting where the rules of the trade union allow voting by members' representative, may pay for expenses referred to in section 33A(1).
- (2) An authorization under this section must limit the expenditures to a specific election and specify the maximum amount authorized.

*(Added 47 of 1988 s. 5)*

**35. Treasurer to render accounts to members**

- (1) The treasurer of a registered trade union and every other officer thereof who is responsible for the accounts of the trade union or for collection, disbursement, custody or control of the funds or moneys thereof shall, upon resigning or vacating his office and at least once in every year at such time as may be specified in the rules of the trade union and at any other times at which he may be required to do so by a resolution of the voting members of the trade union or by the rules thereof, render to the trade union and its members a just and true account of all moneys received and paid by him during the period that has elapsed since his assuming office or, if he has previously rendered an account, since the last date upon which he rendered such account, and of the balance remaining in his custody at the time of rendering such account and of all bonds, securities or other property of the trade union entrusted to his custody or under his control.
- (2) The form of account may be prescribed.
- (3) The trade union shall cause the account to be audited by some person approved for that purpose by the Registrar.
- (4) After the account has been audited, the treasurer or other officer referred to in subsection (1) shall, if he is resigning or vacating his office or if so required by resolution of the voting members of the trade union or by the rules thereof, as the case may be, hand over to the trade union such balance as appears to be due from him and all bonds, securities, effects, books, papers and property of the trade union in his custody or otherwise under his control.
- (5) If the treasurer or other officer referred to in subsection (1) fails to hand over such balance or such other things as are referred to in subsection (4) in accordance with that subsection, the trade union or any voting member thereof may sue him in any competent court for the balance appearing to have been due from him upon the account last rendered by him and for all moneys since received by him on account of the trade union and for the securities and effects, books, papers and property in his custody, leaving him to set off in such action the sums, if any, that he may have since paid on account of the trade union, and in any such action the plaintiff shall be entitled to recover full costs of the suit to be taxed as between solicitor and client.

**36. Annual statement of account and returns to be rendered to Registrar**

- (1) Every registered trade union shall furnish annually to the Registrar, not more than 3 months after the termination of each financial year of the trade union as specified in the rules thereof or within such further period as the Registrar may on application in writing grant, a statement of account, audited by an auditor approved by the Registrar, of all receipts and expenditures during that financial year and of the assets and liabilities of the trade union. The statement shall be accompanied by a copy of the auditor's report and shall be prepared in such form and shall contain such particulars as may be prescribed. (*Amended 15 of 1971 s. 18*)
- (2) Every registered trade union shall furnish to the Registrar on or before 31 March in each year, or within such further period as the Registrar may on application in writing grant, a return in the form prescribed showing the membership of the trade union and the names of the officers thereof on 31 December in the preceding year and containing such other particulars as may be prescribed. (*Amended 15 of 1971 s. 18*)
- (3) Every member of a registered trade union shall be entitled to receive free of charge a copy of the statement of account referred to in subsection (1) and the secretary or other officer thereof specified in the rules of the trade union shall deliver a copy of such statement to every member of the trade union who makes application to him therefor.
- (4) A registered trade union that contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. (*Amended E.R. 3 of 2020*)

### **37. Inspection of accounts**

- (1) The account books of a registered trade union and the register of the members thereof shall be open to inspection by any officer or member of the trade union or any authorized agent thereof at such times and in such place as may be specified in the rules thereof and shall be open to inspection at any time by the Registrar or any person authorized in writing by him in that behalf and the Registrar or such person may for that purpose enter any premises occupied by the trade union or any branch thereof.
- (2) Any person who opposes, obstructs or impedes the Registrar, or any person authorized by him under subsection (1), in the carrying out of such inspection shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 3 months. (*Amended E.R. 3 of 2020*)

**38. Power to require detailed accounts**

- (1) Without prejudice to any other provisions relating to the rendering of accounts, the Registrar may, at any time, call upon a registered trade union to render, in respect of any particular period, an account of the funds of the trade union or any branch thereof, or both, together with a statement of the assets and liabilities thereof, and such account shall show in particular such information, and shall be vouched in such manner, as the Registrar may require and shall be delivered to him within such period as he may specify.
- (2) Any registered trade union that fails to comply with a request made by the Registrar under subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. (*Amended E.R. 3 of 2020*)

**42. Immunity from civil suit in certain cases**

No suit or other legal proceeding shall be maintained in any civil court against a registered trade union in respect of any act done in contemplation or furtherance of a trade dispute to which a member of such trade union is a party on the ground only that such act induces some other person to break a contract of employment or that it is an interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

**43A. Protection from civil suit for acts done in contemplation or furtherance of trade dispute**

- (1) No suit or other legal proceeding shall be maintained in any civil court against an employer, an employee or a member or officer of a registered trade union, in respect of any act done in contemplation or furtherance of a trade dispute—
  - (a) to which such employer or employee is a party;
  - (b) to which such member is a party; or
  - (c) in the case of an officer of a registered trade union, to which a member of that trade union is a party,on the ground only that such act induces some other person to break a contract of employment or that it is an interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.
- (2) This section applies to an act done on or after the day this section comes into operation\*.

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Editorial Note:

\* Commencement date: 27 June 1997.

**45. Affiliation with organizations in foreign countries**

- (1) A registered trade union may be or may become a member of an organization of workers or employers, or a relevant professional organization, which is established in a foreign country if, and only if, it is so authorized by secret ballot of a majority of the voting members of the union present at a general meeting.
- (2) A registered trade union shall, within 1 month after becoming a member of an organization which is established in a foreign country as provided in subsection (1), notify the Registrar in writing of the fact.
- (3) Except as provided in subsection (1), a registered trade union shall not be or become a member of an organization which is established in a foreign country unless—
  - (a) the consent of the Chief Executive has been obtained; and
  - (b) it is so authorized by secret ballot of a majority of the voting members of the union present at a general meeting.
- (4) Any consent given under subsection (3)(a) may be withdrawn at the discretion of the Chief Executive.
- (5) Where a registered trade union is or becomes a member of an organization which is established in a foreign country as provided in subsection (1) or (3), it shall not be necessary for the union to obtain the consent of the Chief Executive for the purposes of section 33(1)(j) in respect of the payment of any contribution by way of a membership fee to that organization.
- (6)
  - (a) In subsection (1), reference to an organization of workers or employers, or a relevant professional organization, which is established in a foreign country does not include reference to a political organization or body established in a foreign country.
  - (b) Nothing in subsection (3) shall be construed as allowing or providing for a registered trade union to be or become a member of a political organization or body established in a foreign country. (*Amended 23 of 1998 s. 2*)
- (7) A registered trade union that contravenes subsection (2) or (3) commits an offence and is liable to a fine at level 1.

- (8) In proceedings for an offence under this section, a certificate signed by an officer of an organization which is established in a foreign country and stating—
- (a) the objects and qualification for membership of the organization;
  - (b) the place of establishment of the organization; or
  - (c) that a registered trade union is or was at a date or for a period specified in the certificate a member of the organization, (*Amended 23 of 1998 s. 2*)

shall be admissible in evidence as proof of the matters so stated; and a certificate purporting to be signed by an officer of an organization which is established in a foreign country shall in the absence of evidence to the contrary be deemed to be such a certificate for the purposes of this section.

- (9) In this section, unless the context otherwise requires—
- (a) ***relevant professional organization*** (有關專業組織), in relation to a registered trade union, means an organization the objects of which are to promote the interests of persons engaged or employed in a trade, industry or occupation which is the same as, or similar to, the trade, industry or occupation with which the registered trade union is directly concerned;
  - (b) reference to an organization of workers, an organization of employers or a relevant professional organization includes reference to a federation of organizations of that particular type.

(*Added 135 of 1997 s. 10*)

#### 46. Peaceful picketing

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

Provided that it shall not be lawful if they so attend in such numbers, or otherwise in such manner, as to be calculated to intimidate any person in that place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace, and any person who acts in contravention of this proviso shall be guilty



of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 6 months.

*(Amended 15 of 1971 s. 21; E.R. 3 of 2020)*

**47. Intimidation and annoyance**

(1) Every person who, with a view to compelling any person to abstain from doing or to do any act that such other person has a legal right to do or abstain from doing, wrongfully and without legal authority—

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

shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 6 months. *(Amended E.R. 3 of 2020)*

(2) Attending at or near any place in such numbers, or otherwise in such manner, as is by the proviso to section 46 declared to be unlawful shall be deemed to be a watching or besetting of that place within the meaning of this section. *(Amended 15 of 1971 s. 22)*

**49. Punishment for withholding money or property of a registered trade union**

- (1) If any officer or any other person being or representing himself to be a member of a registered trade union or the nominee, executor, administrator or assignee of a member thereof or any person whatsoever, by false representation or imposition, obtains possession of any moneys, securities, books, papers or other effects of such trade union, or having the same in his possession, wilfully withholds or fraudulently misapplies the same, or wilfully applies any part of the same to purposes other than those expressed or directed in the rules of such trade union, the District Court, upon application made by such trade union or by any voting member of such trade union or by the Registrar, may make an order requiring such officer, member or other person to deliver up to the trade union all such moneys, securities, books, papers, or other effects of the trade union, or to repay the amount of the moneys applied improperly, and to pay to the trade union, if the District Court thinks fit, a further sum of money not exceeding \$200 together with the costs of the application, and, in default of delivery of such effects, or repayment of such amount of money, or payment of such penalty and costs aforesaid, the said court may order such officer, member or person to be imprisoned for any time not exceeding 3 months: Provided that nothing in this subsection shall prevent any criminal proceedings being taken against such officer, member or other person in relation to any matter in respect of which an order was made under this subsection.
- (2) Without prejudice to the provisions of subsection (1), any registered trade union or any voting member of a registered trade union or the Registrar may apply to the District Court for an injunction restraining an officer of the trade union from holding office or controlling trade union funds, and the District Court, if satisfied that there is a prima facie case against such officer for the fraudulent misuse of the funds of the trade union, may grant such injunction.

**50. Circulating false copies of rules, etc.**

Any person who, with intent to mislead or defraud—

- (a) gives to any member of a registered trade union or to any person intending or applying to become a member of such trade union a copy of any rules, or of any alterations or amendments of any rules, other than those that have been registered for the time being under this Ordinance, on the pretence that such rules are registered or that there are no other rules of such trade union; or

- (b) gives a copy of any document purporting to be rules on the pretence that such document contains the rules of a trade union registered under this Ordinance, that is not so registered; or
- (c) uses any sign, seal or stationery of any unregistered trade union on the pretence that such trade union is registered,

shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 3 months.

*(Amended E.R. 3 of 2020)*

## **52. Contravention of rules**

- (1) If it appears to the Registrar that any registered trade union or any officer thereof has contravened or is about to contravene any of the rules of the trade union respecting any of the matters specified in Schedule 2, the Registrar may serve upon the trade union or upon such officer, as the case may be, a notice in writing requiring the trade union or such officer to comply with such rule. *(Amended 15 of 1971 s. 23)*
- (2) If any registered trade union upon which, or any officer of a registered trade union upon whom, a notice has been served under subsection (1) fails to comply with such notice, the trade union or such officer, as the case may be, shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. *(Amended E.R. 3 of 2020)*

## **53. Application to trade union federations**

- (1) Save as hereinafter expressly provided, this Ordinance shall apply, in so far as applicable, to a trade union federation as if the component trade unions comprising such trade union federation were individual members of a trade union:  
Provided that the Societies Ordinance (Cap. 151) shall not apply to a trade union federation so as to penalize any individual member of a registered trade union merely by reason of his being a member of such registered trade union.
- (2) Save as otherwise provided, every notice, copy of rules or other document required by this Ordinance to be signed, in the case of a trade union, by the secretary or voting members thereof, or both, shall, in the case of a trade union federation, be signed by the chairman and one other officer thereof.

## **54. Provisions as to application for registration of trade union federation**

In the case of a trade union federation, an application for registration in accordance with section 5 shall be signed by the

chairman and one other officer of each of the registered trade unions comprised therein, and shall be accompanied by a declaration from each of such trade unions, signed by 7 voting members thereof, that the application is made with the consent of the voting members thereof as declared by a majority of votes taken by secret ballot at a general meeting of the trade union.

**56. Additions to membership of trade union federations**

- (1) Where a trade union federation has been registered under this Ordinance, no trade union shall subsequently enter into any agreement for membership thereof or be a member of such registered trade union federation unless—
  - (a) *(Repealed 102 of 1997 s. 8)*
  - (b) application for membership of such registered trade union federation has been submitted to the Registrar in the prescribed form, which shall be signed by the secretary and not less than 7 voting members of the trade union applying for such membership, any of whom may be officers thereof, and contain a declaration that such application is made with the consent of the voting members of the trade union as declared by a majority of the votes taken by secret ballot at a general meeting thereof;
  - (c) there has been submitted to the Registrar a declaration signed by all of the officers of such registered trade union federation signifying consent; and *(Amended 13 of 1995 s. 2)*
  - (d) the Registrar, having satisfied himself that all of the requirements of this Ordinance have been complied with, has signified his consent in writing to such trade union joining in membership with such trade union federation.
- (2) If any registered trade union, being a member of a registered trade union federation, shall cease to be registered, such trade union shall forthwith cease to be a member of such registered trade union federation.
- (3) Where, under subsection (1)(d), the Registrar has signified his consent to any registered trade union joining in membership with a trade union federation and, in respect of any declaration made for the purposes of subsection (1)(b) or (c), there has been a contravention of section 58(3), the Registrar may forthwith withdraw such consent.

- (4) If any trade union, or any person acting for or on behalf of or in the name of a trade union with the consent of the trade union, takes any part in the affairs or business of a registered trade union federation of which such trade union is not a properly constituted member in accordance with this Ordinance and the rules of such registered trade union federation, such trade union or person, as the case may be, shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. (*Amended E.R. 3 of 2020*)

## **57. Officers of trade union federations**

No person shall be an officer of a registered trade union federation unless—

- (a) (i) he is an officer of one of the component registered trade unions comprising such trade union federation; and
- (ii) he is ordinarily resident in Hong Kong; or (*Amended 102 of 1997 s. 9*)
- (iii) (*Repealed 102 of 1997 s. 9*)
- (b) he is a voting member of one of the component registered trade unions comprising such trade union federation.

(*Replaced 18 of 1977 s. 6*)

## **58. Forms and offences in relation thereto**

- (1) The Registrar may prescribe all such forms as may, in his opinion, be required for the carrying out of this Ordinance.
- (2) Any form prescribed under subsection (1) shall be published in the Gazette.
- (3) Any person who—
  - (a) in any form prescribed by the Registrar under subsection (1), or in any declaration accompanying any such form, makes any statement or furnishes any information that he knows to be false or has reason to believe to be false;
  - (b) causes or procures any such statement to be made or any such information to be furnished in any such form or in any such declaration; or
  - (c) in any such form or in any such declaration makes any statement or furnishes any information recklessly,shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 3 months. (*Amended E.R. 3 of 2020*)

- (4) Any person who—
- (a) signs any form prescribed by the Registrar under subsection (1) knowing that it contains any false statement or any statement that he has reason to believe to be false; or
  - (b) signs any such form recklessly,
- shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1 and to imprisonment for 3 months. (*Amended E.R. 3 of 2020*)

## **59. Regulations**

- (1) Save as provided in section 58 and notwithstanding anything in the rules of any registered trade union, the Chief Executive in Council may by regulation provide for— (*Amended 56 of 2000 s. 3*)
- (a) all matters stated or required in this Ordinance to be prescribed;
  - (b) books, registers and forms to be used for the purposes of this Ordinance;
  - (c) the manner in which the accounts of registered trade unions shall be audited and the qualifications of persons by whom they may be audited;
  - (d) the seal, if any, to be used by the Registrar for the purpose of registration of trade unions;
  - (e) inspection of registers and documents kept by the Registrar and the making of copies of entries therein;
  - (f) fees to be charged for inspection and any other service or matter prescribed or permitted by this Ordinance;
  - (g) the due disposal and safe custody of the funds and moneys of a registered trade union;
  - (h) the creation, administration, protection, control and disposal of the welfare and electoral funds of registered trade unions and all matters connected therewith or incidental thereto; (*Amended 47 of 1988 s. 7*)
  - (i) generally for giving effect to the principles and provisions of this Ordinance.
- (2) Regulations made under this section may be of general application or limited to any particular registered trade union or class of registered trade unions.

- (3) Regulations made under this section may provide that any person who, or any registered trade union that, contravenes any of the provisions of such regulations shall be guilty of an offence and may prescribe penalties therefor:  
Provided that no penalty so prescribed shall exceed a fine at level 1. (*Amended E.R. 3 of 2020*)

**60. Delegation of powers**

The Registrar may delegate to any officer of the Registry of Trade Unions, either generally or particularly, such of his powers, functions or duties under this Ordinance as he may consider expedient:

Provided that no delegation made hereunder shall preclude the Registrar from exercising or performing at any time any of the powers, functions or duties so delegated.

*(Amended L.N. 446 of 1994)*

**61. Liability of officers thereof where offence committed by trade union**

Where any offence against this Ordinance or any regulations made thereunder has been committed by any registered trade union, every officer of the trade union shall be guilty of the like offence unless he proves to the satisfaction of the court that the act constituting the offence took place without his knowledge or consent.

**62. Limit of time for complaints or information**

Notwithstanding anything contained in the Magistrates Ordinance (Cap. 227), a complaint made or information laid in respect of an offence under this Ordinance or the regulations shall be made or laid within 2 years from the time when the matter of such complaint or information respectively arose.

**63. Service of legal process and notices issued by Registrar**

(1) Every—

- (a) summons, notice or other document required to be served on a registered trade union in any civil or criminal proceeding; and
- (b) notice or other document issued by the Registrar under this Ordinance and required to be served on a registered trade union,

shall be deemed to be duly served if it is delivered at or sent by registered post addressed to the registered office of the trade union or if it is served personally on any officer of the

trade union, provided that such service is otherwise in compliance with the requirements of any relevant Ordinance.

- (2) Notwithstanding the provisions of subsection (1), whenever the Registrar is required under section 11 to give notice to a trade union, he may in addition publish such notice in the Gazette and such publication shall be deemed to be good and effective notice to the trade union.

*(Replaced 15 of 1971 s. 26)*

**65. Ordinance not to affect certain agreements**

Nothing in this Ordinance shall affect—

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

**66. Notification in the Gazette**

The Registrar shall notify the following facts in the Gazette—

- (a) the fact that a trade union has applied for registration under this Ordinance;
- (b) the fact that a trade union has been registered under this Ordinance or that registration has been refused;
- (c) the fact that the registration of a trade union has been cancelled;
- (d) the fact that any change of name, amalgamation or federation relating to any trade union has been registered;
- (e) the fact that any registered trade union has been dissolved; and
- (f) the fact that a trade union has withdrawn its application for registration under this Ordinance. *(Added 15 of 1971 s. 28)*

**67. Provisions of certain Ordinances not to apply to trade unions or trade union federations**

- (1) Subject to the provisions of this Ordinance, the following Ordinances do not apply to a trade union or a trade union federation— *(Amended 28 of 2012 ss. 912 & 920)*
- (a) the Companies Ordinance (Cap. 622);
  - (b) the Co-operative Societies Ordinance (Cap. 33);



- (c) the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32). (*Amended 28 of 2012 ss. 912 & 920*)
- (2) The registration of a trade union or a trade union federation under any of the following Ordinances is void and of no effect —
  - (a) the Companies Ordinance (Cap. 622);
  - (b) the Co-operative Societies Ordinance (Cap. 33). (*Added 28 of 2012 ss. 912 & 920*)

## 68. **Result of registration**

- (1) If a trade union is registered under the relevant Ordinance and the same shall become registered under this Ordinance, all of the property and assets of what description soever vested in the trade union by virtue of registration under the relevant Ordinance together with all rights and liabilities, whether present, future, certain or contingent, shall forthwith be deemed vested in the trade union by virtue of its registration under this Ordinance, and all causes of action subsisting, or suits or other legal proceedings pending, by or against the trade union by reason of or arising out of its registration under the relevant Ordinance shall subsist or be continued by or against such trade union by virtue of its registration under this Ordinance. (*Amended 28 of 2012 ss. 912 & 920*)
- (2) If any unincorporated association, being a trade union within the meaning of this Ordinance, shall become registered thereunder, all of the property and assets of what description soever belonging to the members of such association by virtue of membership thereof or vested in trustees for the members of such association shall become vested in the registered trade union upon registration together with all rights and liabilities, whether present, future, certain or contingent, and all causes of action subsisting, or suits or other legal proceedings pending, by or against any trustees for the members of such association or any officer or member on behalf of himself and all other members of such association shall subsist or continue by or against such registered trade union in the name under which it is registered.
- (3) For the purposes of this section—

***relevant Ordinance*** (《有關條例》) means—

- (a) the Companies Ordinance (Cap. 32) as in force from time to time before the commencement date\* of section 2 of Schedule 9 to the Companies Ordinance (Cap. 622);

- (b) the Co-operative Societies Ordinance (Cap. 33); or
- (c) the Companies Ordinance (Cap. 622). (*Added 28 of 2012 ss. 912 & 920*)

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Editorial Note:

\* Commencement date : 3 March 2014.

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## Schedule 1

[s. 17]

Any offence involving—

- (a) fraud;
- (b) dishonesty;
- (c) extortion;
- (d) membership of a triad society.

(*Added 15 of 1971 s. 29*)

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## Schedule 2

[s. 18]

### **Matters for which Provision must be Made in the Rules of Every Registered Trade Union**

The rules of every registered trade union shall—

- (a) contain a statement of the name of the trade union and the address of its registered office;
- (b) declare the whole of the objects for which the trade union is established;
- (c) subject to the provisions of section 17, declare the conditions under which persons may enjoy—
  - (i) voting membership; and
  - (ii) non-voting membership;
- (d) (i) provide for the keeping of a register of members of the trade union; and

- (ii) make provision for the maintenance of discipline within the trade union, including provision for appeal to the voting members at a general meeting of the trade union against any decision of the executive cancelling the membership of any member or dismissing any officer;
- (e) specify the method of convening and conducting annual general meetings and extraordinary general meetings, and the matters to be presented to the members of the trade union at such meetings, including in the case of annual general meetings the presentation of audited accounts;
- (f) provide for the appointment and replacement of officers of the trade union;
- (g) provide that every voting member of the trade union shall have a reasonable opportunity of voting;
- (h) provide that all decisions in respect of the following matters be taken by decision of the voting members of the trade union by means of secret ballot—
  - (i) the appointment of members of the executive; (*Amended 18 of 1977 s. 7*)
  - (ii) change of name of the trade union;
  - (iii) amalgamation of the trade union with any other trade union; (*Amended 135 of 1997 s. 11*)
  - (iiia) establishing an electoral fund; (*Added 135 of 1997 s. 11*)
  - (iiib) the payment of any expenses of a kind mentioned in section 33A(1); (*Added 135 of 1997 s. 11*)
  - (iiic) being or becoming a member of an organization which is established in a foreign country; and (*Added 135 of 1997 s. 11*)
  - (iv) federation of the trade union with any other trade union or with a trade union federation;
- (i) specify the amount and manner of payment of subscriptions, fees and contributions payable by members of the trade union;
- (j) (i) subject to the provisions of section 33, specify the purposes to which the funds of the trade union may be applied;

- (ii) provide for the creation, administration, protection, disbursement and disposal of the welfare fund (if any) and declare the conditions under which any member, or the family of any member, of the trade union may become entitled to any benefit assured thereby;
- (iii) provide for the administration, protection, disbursement and disposal of the electoral fund, if one is established, and declare the conditions under which money in the fund may be spent. (*Added 47 of 1988 s. 8*)
- (k) provide for the custody and investment of the funds (if any) of the trade union, the designation of the officer or officers responsible therefor, the keeping of accounts and the annual, or more frequent periodic, auditing thereof;
- (l) specify the commencement and termination of the financial year of the trade union;
- (m) ensure reasonable opportunity for the inspection by members of the trade union of the rules of the trade union, its account books and the registers of the names of the members thereof;
- (n) provide for the making, altering, amending and rescinding of the rules of the trade union;
- (o) provide for the method of dissolution of the trade union and the manner in which the funds thereof shall be disposed of upon dissolution; (*Amended 15 of 1971 s. 30*)
- (p) provide for the safe custody of the common seal of the trade union. (*Added 15 of 1971 s. 30*)

**2. Contents of the register**

- (1) The following particulars regarding any trade union or trade union federation shall be recorded by or at the direction of the Registrar in the register—
  - (a) the name and the date of registration of the trade union or trade union federation and its rules;
  - (b) the address of the head office;
  - (c) the amalgamation of the trade union or trade union federation, as the case may be, with any other trade union or trade union federation;
  - (d) the dissolution of the trade union or trade union federation;
  - (e) the cancellation of the registration of the trade union or trade union federation; and
  - (f) any change in—
    - (i) the name;
    - (ii) the rules; or
    - (iii) the address of the registered office, of the trade union or trade union federation.
- (2) Every entry in the register and any amendment thereto shall be signed or initialled by the Registrar or the Deputy Registrar of Trade Unions.

**5. Provisions as to submission for registration of rules on application for registration of trade union**

Where rules are sent to the Registrar for registration by a trade union or trade union federation that has applied for registration under the Ordinance—

- (a) two copies of the rules shall be sent; and
- (b) in the case of a trade union, both copies of the same shall be signed by each of the persons who has signed the application for registration of the trade union or, if, by reason of death or illness or any other good cause, any such person is unable or ineligible to sign such copies, by some other voting member of such trade union; or

- (c) in the case of a trade union federation, both copies of the same shall be signed by the chairman and one other officer of each of the registered trade unions comprised therein.

*(L.N. 44 of 1971)*

**6. Documents to be issued on registration of a trade union**

Upon the registration of a trade union or a trade union federation, the Registrar shall issue to the trade union or the trade union federation, as the case may be, the following documents—

- (a) a copy of the Ordinance and of these regulations;
- (b) a certificate of registration; and
- (c) a copy of the rules of the trade union or trade union federation certified by the Registrar as complying, in his opinion, with the provisions of section 18 of the Ordinance.

**9. Procedure on registration of change of name**

Where, under section 23 of the Ordinance, the Registrar registers a change of the name of any registered trade union or registered trade union federation, he shall—

- (a) amend, accordingly, the certificate of registration issued by him in respect of the trade union or trade union federation, and return such certificate to the trade union or trade union federation; or
- (b) if he thinks fit, issue a new certificate of registration.

**10. Provisions as to submission for registration of wholly new rules or altered, amended or added rules**

- (1) Where wholly new rules are sent to the Registrar for registration by a registered trade union—
  - (a) two copies of the rules shall be sent; *(L.N. 44 of 1971)*
  - (b) an application for the registration thereof shall be made in the prescribed form and shall be signed by the chairman and one other officer of such trade union; and
  - (c) both copies of such rules shall be signed by not less than 7 voting members of the trade union. *(L.N. 44 of 1971; E.R. 3 of 2020)*
- (2) Where an alteration to or amendment of a registered rule, or an addition to the registered rules, of a registered trade union is sent to the Registrar for registration by a registered trade union

- (a) an application for the registration of the amended or altered rule or the rule so added shall be made in the prescribed form and shall be signed by the chairman and one other officer of the trade union; and
- (b) there shall be sent to the Registrar at the same time as such application for registration—
  - (i) one copy of the registered rules marked so as to indicate the alteration, amendment or addition, as the case may be; and
  - (ii) one copy of the text of the amendment, alteration or addition, as the case may be, which shall be signed by not less than 7 voting members of the trade union. (*E.R. 3 of 2020*)

**11. Procedure on registration of amalgamation of trade unions, etc.**

Where, under section 6 of the Ordinance, the Registrar registers a trade union or trade union federation formed by the amalgamation of two or more trade unions or trade union federations, as the case may be, he shall issue—

- (a) one certificate of registration in the name under which such trade unions or trade union federations are amalgamated; and
- (b) a copy of the rules of the trade union or trade union federation certified by him as complying, in his opinion, with the provisions of section 18 of the Ordinance.

**12. Loss, etc. of certificate**

If the Registrar is satisfied that a certificate of registration has been lost, destroyed or defaced, he may issue, free of charge, a duplicate thereof.

**13. Certificate of registration to be returned on cancellation of registration**

Where the registration of a registered trade union or a registered trade union federation is cancelled, the person for the time being having custody of the certificate of registration of the trade union or trade union federation shall, within 14 days of the publication in the Gazette, in accordance with section 66 of the Ordinance, of a notice of the fact that the registration has been cancelled, return such certificate to the Registrar.

*(E.R. 3 of 2020)*

**15. Access to books for purposes of audit**

- (1) Every auditor approved by the Registrar for the purpose of auditing the annual statement of account, required by section 36 of the Ordinance, of a trade union or trade union federation shall be granted access by every person having the custody or control of any of the books and accounts of the trade union or trade union federation to all of such books and accounts in his custody or control.
- (2) No person shall conceal any book or account of a registered trade union or registered trade union federation from any such auditor or deny any such auditor access to any such book or account or obstruct any such auditor in any examination thereof.

#### **16. Audit of annual statement of account**

Every auditor approved by the Registrar for the purpose of auditing the annual statement of account, required by section 36 of the Ordinance, of a registered trade union or registered trade union federation shall examine every balance sheet and every statement of receipts and expenditure of the trade union or trade union federation relevant to the period under audit and shall verify them against all accounts or vouchers relating thereto, and shall—

- (a) if such be the case, sign the annual statement of account as exhibiting a true and correct view of the affairs of the trade union or trade union federation; or
- (b) report in writing to the Registrar in what respect he finds such statement of account to be incorrect, unsupported by vouchers or not in accordance with any requirement of the Ordinance or any regulations made thereunder or any rules of the trade union or trade union federation, as the case may be.

#### **17. Offences and penalty**

- (1) Any person who contravenes regulation 13 shall be guilty of an offence and shall be liable to a fine at level 1, and shall be liable in addition to a fine of \$10 for each day during which it is proved to the satisfaction of the court that the offence has continued.
- (2) Any person who contravenes paragraph (2) of regulation 15 shall be guilty of an offence and shall be liable to a fine at level 1.
- (3) Any trade union or trade union federation that contravenes regulation 7 shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1.



- (4) Any trade union that contravenes regulation 14 shall be guilty of an offence and shall be liable on summary conviction to a fine at level 1. (*L.N. 44 of 1971*)

(*E.R. 3 of 2020*)

## **IMPLICATIONS OF THE PROPOSAL**

### **Economic Implications**

The proposal can better safeguard national security and improve the trade union regulatory regime. This is conducive to fostering the social stability of the HKSAR, thereby improving its business and investment environment for the good of economic development.

### **Financial and Civil Service Implications**

2. Following the passage of the Bill, RTU of LD will be entrusted with a range of additional duties related to the implementation of the amended TUO. Internal resources would be redeployed to cater for relevant manpower needs<sup>1</sup> and LD may seek additional resources, if necessary, in accordance with the established mechanism.

3. For the proposed penalties, the actual financial implications are subject to the amount of fines imposed by the Court in the event of prosecution. In any case, raising government revenue is not the policy intent behind the proposal.

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<sup>1</sup> Three envelope-funded posts have been approved including the extension of one Chief Labour Officer (D1) post, subject to the approval of the Finance Committee of LegCo, and two non-directorate posts.