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Official Gazette

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LEGISLATION SECTION

**Act amending the Public Employees' Unions Act, the Social Insurances Act
and the Social Security Institution**

Act no. 5198

Date on which Act was passed: 24.6.200

Section 1. Section 14 of the Public Employees' Unions Act no. 4688 of 25.6.2001 has been amended to read as follows:

Section 14. – Membership in a trade union is free;

public employees may join a union which has been established in the field of service within which their workplace falls.

To obtain trade union membership, a public employee shall apply to the union by filling in and submitting a membership form in triplicate, and the application must be approved by the competent organ of the trade union. The application for membership shall be deemed to have been accepted unless it is refused by the union within a term of thirty days. A public employee whose application for membership is refused without justifiable reason shall be entitled to instigate legal proceedings before the local court with jurisdiction over labour cases within thirty days of the date on which the refusal is served to him/her.

The trade union shall give a public employee whose membership has been confirmed a copy of the application form; another copy shall be conserved by the union, and a further copy shall be forwarded to the employer within fifteen days as a basis for union dues and for conservation in the employee's personnel record.

Membership in more than one union shall not be allowed. Where an employee joins more than one union the subsequent memberships shall be invalid.

Notifications of membership in several unions on the same date shall not be considered, and this matter shall be communicated by the employer to the person concerned and to the respective unions in writing.

Section 2. Section 16 of Act no. 4688 has been amended to read as follows:

Section 16. – Every member shall be free to resign from membership.

Resignation from membership shall be accomplished as follows: a public employee wishing to resign from membership shall fill in the resignation notice in triplicate and forward the copies to the institution. The institution official shall immediately give the member a copy of the resignation notice, which shall be dated and endorsed with a registration number. The public employer shall send a copy of the notice to the trade union within fifteen days.

The resignation shall take effect thirty days after the date on which the application was made to the public employer. If the resignee joins another union within that period, his membership in the new union shall be effective as of the date on which that period ends.

The decision to expel a member from a union shall be taken by the general council at the union headquarters. The expulsion decision shall be communicated to the member concerned and to the employer in writing. The member can file an objection to the expulsion decision before the competent labour tribunal within fifteen days of notification. The tribunal shall deliver a final judgment within one month. Membership shall continue until the expulsion decision becomes final.

The membership of those persons who belong to a trade union and who leave a public function either because they resign or because their function comes to an end or for similar reasons and of persons who are appointed to an institution in a different field of service and any offices they hold on organs of a union branch or union or confederation shall end. Any offices held on organs of a union branch or of a union or confederation by public employees who retire shall continue until the end of the term for which they were elected.

Where membership continues or is suspended, the provisions of Section 24 of the Unions Act (no. 2821) shall apply.

Section 3. Section 18 of Act no. 4688 has been amended to read as follows:

Section 18. – Public employees shall not be subject to different treatment and their employment shall not be terminated because they participate in the activities of trade unions or trade union confederations referred to in the present Act outside working hours or, with their employer's permission, during working hours.

A public employer shall not change the place of work of shop stewards or of the administrators of unions or union branches unless they have justifiable grounds and state the reason clearly and explicitly.

Public employees shall not be subject to discrimination by public employers because they are, or are not, members of a trade union.

Any executive board members who attend to the management and administration of a union or confederation pending the convening of the first general council, persons who are elected to the executive board by the general council, and members of the executive boards of union branches shall notify their institutions of their situation in writing within thirty days of the date on which they are elected. The above-mentioned administrators shall take unpaid leave of absence for the duration of the offices they hold, if they submit a specific request in writing in accordance with the provisions of the union byelaws and within thirty days of the date on which they are elected. Those who do not make such a request shall continue to perform their functions in their respective institutions. Executive board members who do not take leave of absence shall be deemed to have one day's leave per week from their institutions.

At least 400 members are required in order to set up union branches.

The offices held on union or confederation organs by persons who stand as candidates in local and general elections shall be suspended throughout the term of their candidacy. Where they fail to be elected their offices shall end.

The periods during which administrators take unpaid leave of absence shall count towards their acquired pension rights and the monthly payments shall count towards their pensions provided that they agree that the retirement contributions and payments are paid

into the Retirement Fund of the Republic of Turkey every month by the unions in which they are administrators.

The institutions from which executive board members of unions, confederations and union branches take unpaid leave of absence shall continue to pay the health care expenses of those persons and of the members of their families whom they are responsible for looking after.

Those employees who, having taken unpaid leave of absence, subsequently resign from their offices on union or confederation organs for any reason shall be reinstated in their former posts or other appropriate posts by the public employer within thirty days if they apply in writing to the institution or organisation within thirty days of the date on which their offices come to an end. Those who do not apply to return to their posts within thirty days shall be deemed to have resigned from their posts.

Where an employee takes a matter to court in cases where he has been removed from office or required to retire, or on account of termination of his office or assignment, his trade union office shall continue until the court decision becomes final.

Section 4. Section 25 of Act no. 4688 has been amended to read as follows:

Section 25. – The membership dues to be paid by public employees in accordance with the membership application form that has been filled in pursuant to Section 14 and in accordance with the amount laid down in the union byelaws shall be deducted from their monthly salaries by their public employers and transferred to the respective unions' bank accounts within five days, and a copy of the list of dues shall be sent to the union concerned. The public employer shall post the list of unionised public employees whose union dues have been deducted in a place that is accessible to all at the workplace in the last week of each month.

The amount of trade union dues shall be laid down in the union byelaws and shall not be less than five-thousandths or more than one-thirtieth of the total net amount of payments accruing from the monthly salary of a salaried civil servant from the first class of the fifteenth grade, the minimum salary, plus any kind of cost-of-living increments and indemnities.

The union byelaws shall not contain any provisions for the deduction of any amounts from members' salaries other than union membership dues, regardless of its designation.

Trade unions shall communicate the names of any members whom the general council at union headquarters has decided to expel from membership to the employer within fifteen days.

The amount of affiliation fees to be paid by unions to their confederations shall be determined by the congresses of the confederations and shall not exceed five percent of the unions' dues.

Section 5. Section 30 of Act no. 4688 has been amended to read as follows:

Section 30. – The trade union with the largest membership in each field of service and the confederations to which those unions are affiliated shall be authorised to conduct collective negotiations. The representative of the confederation with the largest membership shall chair the bargaining delegation.

The following principles shall apply in the determination of competent unions and confederations.

a) Assessment to be made by the institutions

The institution's employer representative and assessor or financial department official as well as a representative from each of the trade unions active in the institution's field of service shall attend the assessment meeting. The meeting shall be held within the five working days following 15 May of each year at the place and on the day to be determined by the institution and communicated to the unions.

The list of public employees employed in the institution subject to the present Act as of 15 May and a list setting out the members of the trade union whose members' dues are deducted shall be assessed by the persons attending the meeting. Once the assessment has been made, a report stating the total number of public employees and the total number of unionised public employees, broken down by union, shall be signed by the participants at the

meeting. The signed report shall be sent by the public employer and the unions to the Ministry of Labour and Social Security by the last working day in May.

The provincial organisations of the institutions shall forward the reports to be drawn up at the conclusion of the meetings to be convened in accordance with the above principles and attended by the parties to the headquarters of the institutions within the two working days following 15 May for evaluation in the assessment to be carried out at headquarters. These reports shall be synthesised into one single report at headquarters with the participation of the parties.

b) Assessment to be carried out by the Ministry of Labour and Social Security on the basis of the jointly signed lists submitted by the institutions and unions:

The Ministry of Labour and Social Security shall determine the total number of public employees employed in institutions in the various fields of service and the number of members of the various trade unions in each field of service as at 15 May each year, thereby taking account of the total number of public employees in the institutions and the number of union members whose dues are deducted and sent to the respective unions. It shall thus determine the total membership of the competent public employees' unions and confederations in the various fields of service and publish the results in the Official Gazette every year in the first week of July.

Article 6. The following paragraph has been added after the second paragraph of Article 35 of Act no. 4688:

The travel and accommodation expenses and per diem allowances of persons attending collective bargaining proceedings and the proceedings of the Arbitration Board as well as the meeting costs shall be paid out of an appropriation earmarked in the budget of the State Personnel Department.

Section 7. The following Provisional Section has been added to Act no. 4688:

Provisional Section 9. – for 2004,

a) the assessment for which provision is made in Section 30, paragraph 2, subsection a) shall be carried out as of 15 July 2004 and sent to the Ministry of Labour and Social Security by 24 July 2004;

b) the assessment to be carried out by the Ministry of Labour and Social Security pursuant to Section 30, paragraph 2, subsection b) shall be published in the Official Gazette by 30 August 2004;

c) the term “fifteenth day of August” in the first paragraph of Section 32 shall be read as “fifteenth day of September”.

Section 8. The following paragraph has been added at the end of Section 8 of the Social Insurances Act (no. 506) of 17.7.1964:

The provincial governors' offices, municipalities and other competent permit-issuing authorities shall notify the Institution of the construction works for which they have issued permits within one month of the date of the permits.

Section 9. The amended first paragraph of amended Section 78 of Act no. 506 has been amended to read as follows:

The threshold for daily earnings taken as a basis for calculating the insurance contributions and benefits to be paid is the daily minimum wage laid down pursuant to Section 39 of the Labour Act for adults over 16 years of age the ceiling is 6.5 times the daily minimum wage.