

Chapter:	332	TRADE UNIONS ORDINANCE	Gazette Number	Version Date
----------	-----	-------------------------------	----------------	--------------

		Long title		30/06/1997
--	--	-------------------	--	------------

To make provision for the registration and better control of trade unions, and matters ancillary thereto.

[1 April 1962] G.N.A. 14 of 1962

(Originally 52 of 1961)

Part:	I	PRELIMINARY		30/06/1997
-------	---	--------------------	--	------------

Section:	1	Short title		30/06/1997
----------	---	--------------------	--	------------

This Ordinance may be cited as the Trade Unions Ordinance.

(Amended 15 of 1971 s. 2)

Section:	2	Interpretation		30/06/1997
----------	---	-----------------------	--	------------

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)

"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.

Part:	II	APPOINTMENTS		30/06/1997
-------	----	---------------------	--	------------

Section:	3	Appointment of Registrar, etc.	56 of 2000	01/07/1997
----------	---	---------------------------------------	------------	------------

Remarks:

Adaptation amendments retroactively made - see 56 of 2000 s. 3

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)

Part:	III	REGISTRATION		30/06/1997
-------	-----	---------------------	--	------------

Section:	4	Register of trade unions		30/06/1997
----------	---	---------------------------------	--	------------

(1) The Registrar shall keep a register in which shall be recorded such particulars relating to trade unions and trade union federations as may be prescribed by regulations.

(2) A copy of an entry in the register certified under the hand of the Registrar shall, until the contrary is shown, be received in evidence as proof of the facts specified therein as at the date of such certified copy.

Section:	5	Trade unions to be registered, etc.		30/06/1997
----------	---	--	--	------------

(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 of \$1000 and to imprisonment for 6 months:

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.

Section:	6	Registration		30/06/1997
----------	---	---------------------	--	------------

(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.

Section:	7	Refusal of registration		30/06/1997
----------	---	--------------------------------	--	------------

(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.

Section:	8	Appeals against refusal of Registrar to register trade union	25 of 1998 s. 2	01/07/1997
----------	---	---	-----------------	------------

Remarks:

Amendments retroactively made-see 25 of 1998 s. 2

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)

Section:	9	Effect of application to register	30/06/1997
----------	---	--	------------

(1) The provisions of this Ordinance, other than the provisions of section 45, shall apply to a trade union in respect of which application for registration has been made in accordance with section 5 in like manner as if the trade union had been duly registered:

Provided that, upon service by the Registrar upon any of the applicants for registration of a notice of refusal to register, the provisions of this Ordinance shall cease so to apply to the trade union.

(2) A trade union in respect of which application for registration has been made in accordance with section 5 shall, for the purposes of the Societies Ordinance (Cap 151), be deemed to have been duly registered under this Ordinance:

Provided that, upon service by the Registrar upon any of the applicants for registration of a notice of refusal to register, the trade union shall cease to be deemed to have been so registered.

Section:	10	Cancellation of registration	30/06/1997
----------	----	-------------------------------------	------------

(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.

Section:	11	Notice of cancellation	30/06/1997
----------	----	-------------------------------	------------

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.

Section:	12	Appeals in relation to cancellation by Registrar of registration of trade union	25 of 1998 s. 2	01/07/1997
----------	----	--	-----------------	------------

Remarks:

Amendments retroactively made-see 25 of 1998 s. 2

(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)

Section:	13	Effect of registration		30/06/1997
----------	----	-------------------------------	--	------------

The registration of a trade union shall render it a body corporate by the name under which it is registered, and, subject to the provisions of this Ordinance, with perpetual succession and with power to hold property movable or immovable and to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

Section:	14	Effect of cancellation of registration		30/06/1997
----------	----	---	--	------------

(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.

Section:	15	Power of liquidator and Registrar in winding up of affairs of a trade union		30/06/1997
----------	----	--	--	------------

(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 chooses 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.

Section:	16	Closure of liquidation on appointment of liquidator by Registrar		30/06/1997
----------	----	---	--	------------

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)

Part:	IV	CONSTITUTION		30/06/1997
-------	----	---------------------	--	------------

Section:	17	Officers and members of trade unions	135 of 1997	31/10/1997
----------	----	---	-------------	------------

Remarks:

Adaptation amendments retroactively made - see 56 of 2000 s. 3

(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 of \$1000 and to imprisonment for 6 months.

Note:

* **As to the suspension of operation of 102 of 1997, please see s. 3(1) of Cap 538. On 31 October 1997, that s. 3(1), to the extent that it was in effect immediately before 31 October 1997, ceased to have effect. Please see s. 12 of 135 of 1997.**

Section:	17A	Powers of Registrar in respect of union elections and membership	25 of 1998 s. 2	01/07/1997
----------	-----	---	-----------------	------------

Remarks:

Amendments retroactively made-see 25 of 1998 s. 2

- (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)

Section:	17B	(Repealed 135 of 1997 s. 14)	135 of 1997	31/10/1997
----------	-----	-------------------------------------	-------------	------------

Note:

This section was added by 101 of 1997. As to the suspension of operation of 101 of 1997, please see s. 4(1) and (2) of Cap 538. On 31 October 1997, that s. 4(1) and (2), to the extent that it was in effect immediately before 31 October 1997, ceased to have effect. Please see s. 14(2) of 135 of 1997.

Section:	18	Rules	135 of 1997 s. 6	31/10/1997
----------	----	--------------	------------------	------------

(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 of \$200.

(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 of \$200.

(Amended 15 of 1971 s. 11)

Section:	18A	Refusal by Registrar to register rules under section 18	135 of 1997 s. 7	31/10/1997
----------	-----	--	------------------	------------

(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)

Section:	19	Copies of rules		30/06/1997
----------	----	------------------------	--	------------

A copy of the rules of a registered trade union shall be delivered by the trade union to any person demanding the same and tendering payment in advance of a sum not exceeding \$2.

Section:	20	Registered office		30/06/1997
----------	----	--------------------------	--	------------

(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 of \$100.

Section:	20A	Seal		30/06/1997
----------	-----	-------------	--	------------

(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 of \$100.

(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 of \$100.

(Added 15 of 1971 s. 12)

Section:	21	Branches and various undertakings of trade unions to be reported to the Registrar		30/06/1997
----------	----	--	--	------------

(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 of \$200.

Section:	22	Notification of officers, etc.		30/06/1997
----------	----	---------------------------------------	--	------------

(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 of \$200.

Section:	23	Change of name	25 of 1998	01/07/1997
----------	----	-----------------------	------------	------------

Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

*(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 of \$100. (Added 15 of 1971 s. 14)

Note:

* **As to the suspension of operation of 102 of 1997, please see s. 3(1) of Cap 538. On 31 October 1997, that s. 3(1), to the extent that it was in effect immediately before 31 October 1997, ceased to have effect. Please see s. 12 of 135 of 1997.**

Section:	24	Consent of Registrar required to amalgamation of trade unions		30/06/1997
----------	----	--	--	------------

Save with the consent of the Registrar, no registered trade unions shall amalgamate as one trade union.

Section:	25	Application for consent to amalgamation		30/06/1997
----------	----	--	--	------------

(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.

Section:	26	Vote on application for consent to amalgamation		30/06/1997
----------	----	--	--	------------

No application under section 25 for the consent of the Registrar to the amalgamation of any registered trade unions shall be made unless, in the case of each trade union, a majority of the executive thereof has voted in favour of the making of the application.

Section:	27	Grounds for refusal to consent to amalgamation and procedure in such cases	25 of 1998 s. 2	01/07/1997
----------	----	---	-----------------	------------

Remarks:

Amendments retroactively made-see 25 of 1998 s. 2

- (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)

Section:	28	Application for consent to be referred to Chief Executive in certain cases	56 of 2000	01/07/1997
----------	----	---	------------	------------

Remarks:

Adaptation amendments retroactively made - see 56 of 2000 s. 3

(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)

Section:	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		30/06/1997
----------	----	--	--	------------

(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.

Section:	30	Procedure for amalgamation, etc.		30/06/1997
----------	----	---	--	------------

(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.

Section:	31	Transfer of liabilities, etc. to trade union formed by amalgamation		30/06/1997
----------	----	--	--	------------

(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.

Section:	32	Notification of dissolution		30/06/1997
----------	----	------------------------------------	--	------------

(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, 14 fourteen 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 of \$200.

Part:	V	FUNDS, ACCOUNTS AND RETURNS		30/06/1997
-------	---	------------------------------------	--	------------

Section:	33	Application of funds	135 of 1997	31/10/1997
----------	----	-----------------------------	-------------	------------

(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 of \$500.

Note:

* **As to the suspension of operation of 102 of 1997, please see s. 3(1) of Cap 538. On 31 October 1997, that s. 3(1), to the extent that it was in effect immediately before 31 October 1997, ceased to have effect. Please see s. 12 of 135 of 1997.**

Section:	33A	Electoral fund	L.N. 320 of 1999	01/01/2000
----------	-----	-----------------------	------------------	------------

(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 the 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 of \$500.

(Added 47 of 1988 s. 5)

Section:	33B	Electoral expenses resolution		30/06/1997
----------	-----	--------------------------------------	--	------------

(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)

Section:	34	Use of funds for political purposes	135 of 1997	31/10/1997
----------	----	--	-------------	------------

Except as permitted under sections 33A and 33B, the funds of a registered trade union shall not, whether in Hong Kong or elsewhere-

- (a) be applied either directly or indirectly for any political purpose; or
- (b) be paid or transferred to any person or body of persons in furtherance of any political purpose.

(Added 135 of 1997 s. 9)

Note:

The old s. 34 was repealed by 102 of 1997 on 30 June 1997. As to the suspension of operation of 102 of 1997, please see s. 3(1) of Cap 538. On 31 October 1997, that s. 3(1), to the extent that it was in effect immediately before 31 October 1997, ceased to have effect. Please see s. 12 of 135 of 1997.

Section:	35	Treasurer to render accounts to members		30/06/1997
----------	----	--	--	------------

(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.

Section:	36	Annual statement of account and returns to be rendered to Registrar		30/06/1997
----------	----	--	--	------------

(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 of \$500.

Section:	37	Inspection of accounts		30/06/1997
----------	----	-------------------------------	--	------------

(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 of \$500 and to imprisonment for 3 months.

Section:	38	Power to require detailed accounts		30/06/1997
----------	----	---	--	------------

(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 of \$500.

Part:	VI	RIGHTS AND LIABILITIES OF TRADE UNIONS		30/06/1997
-------	----	---	--	------------

Section:	39	Disabilities of unregistered union		30/06/1997
----------	----	---	--	------------

Subject to section 9, no trade union shall enjoy any of the rights, immunities or privileges of a registered trade union until it is registered.

Section:	40	Registered trade union not criminal		30/06/1997
----------	----	--	--	------------

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

Section:	41	Registered trade union not unlawful for civil purposes		30/06/1997
----------	----	---	--	------------

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

Section:	42	Immunity from civil suit in certain cases		30/06/1997
----------	----	--	--	------------

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.

Section:	43	Prohibition of actions in tort against registered trade unions		30/06/1997
----------	----	---	--	------------

(1) An action against a registered trade union, whether of employees or employers, in respect of any tortious act alleged to have been committed in contemplation or furtherance of a trade dispute by or on behalf of such trade union shall not be entertained by any court. (Amended 15 of 1971 s. 19)

(2) Nothing in this section shall affect the liability of a registered trade union, or any trustees thereof, to be sued in any court touching and concerning any property, or any right or claim to property, of such trade union, except in respect of any tortious act committed by or on behalf of such trade union in contemplation or furtherance of a trade dispute.

Section:	43A	Protection from civil suit for acts done in contemplation or furtherance of trade dispute		30/06/1997
----------	-----	--	--	------------

(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.

(Added 77 of 1997 s. 2)

Section:	44	Trade union contracts	L.N. 307 of 1998	04/09/1998
----------	----	------------------------------	------------------	------------

Nothing in this Ordinance shall enable any court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements, namely-

- (a) any agreement between members of a trade union as such concerning the conditions on which any members for the time being of such trade union shall or shall not sell their goods, transact business, employ or be employed;
- (b) any agreement for the payment by any person of any subscription or penalty to a trade union;
- (c) any agreement for the application of the funds of a trade union-
 - (i) to provide benefits for members; or
 - (ii) to furnish contributions to any employer or employee not a member of such trade union, in consideration of such employer or employee acting in conformity with the rules or resolutions of such trade union; or (Amended 15 of 1971 s. 20; L.N. 307 of 1998)
 - (iii) to discharge any fine imposed on any person by sentence of a court of justice; or
- (d) any agreement made between one trade union and another; or
- (e) any bond to secure the performance of any of the above mentioned agreements,

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

Section:	45	Affiliation with organizations in foreign countries	135 of 1997	31/10/1997
----------	----	--	-------------	------------

Remarks:

Adaptation amendments retroactively made-see 23 of 1998 s. 2

(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)

Note:

The old s. 45 was repealed by 102 of 1997 on 30 June 1997. As to the suspension of operation of 102 of 1997, please see s. 3(1) of Cap 538. On 31 October 1997, that s. 3(1), to the extent that it was in effect immediately before 31 October 1997, ceased to have effect. Please see s. 12 of 135 of 1997.

Section:	45A	Transitional provision in relation to section 45	135 of 1997	31/10/1997
----------	-----	---	-------------	------------

(1) Section 45 does not apply in relation to a registered trade union's being a member of an organization which is established in a foreign country in the case where the trade union-

- (a) became a member of the organization during the period beginning with the commencement of the Trade Unions (Amendment) (No. 2) Ordinance 1997 and ending with the commencement of the Legislative Provisions (Suspension of Operation) Ordinance 1997 (section 3(1) of which suspends the operation of that Ordinance); and
- (b) has remained a member of the organization continuously since so becoming a member.

(2) Section 45 does not apply in relation to a registered trade union's being a member of an organization which is established in a foreign country in the case where the trade union-

- (a) was, immediately before the commencement of the Trade Unions (Amendment) (No. 2) Ordinance 1997, a member of the organization in accordance with section 45 as then in force; and
- (b) has remained a member of the organization continuously ever since,

and section 45 as in force immediately before the commencement of the Trade Unions (Amendment) (No. 2) Ordinance 1997 shall continue to apply in relation to the trade union's being a member of the organization as if that Ordinance and the Employment and Labour Relations (Miscellaneous Amendments) Ordinance 1997 had not been enacted.

(3) Section 45 does not apply in relation to a registered trade union's being a member of an organization which is established in a foreign country in the case where the trade union-

- (a) was, immediately before the commencement of the Employment and Labour Relations (Miscellaneous Amendments) Ordinance 1997, a member of the organization in accordance with section 45 as then in force; and
- (b) has remained a member of the organization continuously ever since,

and section 45 as in force immediately before the commencement of the Employment and Labour Relations (Miscellaneous Amendments) Ordinance 1997 shall continue to apply in relation to the trade union's being a member of the organization as if that Ordinance had not been enacted.

(4) To avoid doubt, it is declared that for the purposes of the continued application of section 45 as in force immediately before the commencement of the Trade Unions (Amendment) (No. 2) Ordinance 1997 or the Employment and Labour Relations (Miscellaneous Amendments) Ordinance 1997, as provided in subsections (2) and (3)-

- (a) any reference in that section to the Governor shall be read as reference to the Chief Executive;
- (b) any reference in that section to a fine of \$500 shall be read as reference to a fine at level 1.

(5) Reference in subsections (3) and (4) to section 45 as in force immediately before the commencement of the Employment and Labour Relations (Miscellaneous Amendments) Ordinance 1997 is a reference to that section as so in force by virtue of section 3(1) of the Legislative Provisions (Suspension of Operation) Ordinance 1997.

(6) In this section-

"Employment and Labour Relations (Miscellaneous Amendments) Ordinance 1997" (《1997 年僱傭及勞資關係(雜項修訂)條例》) means the Employment and Labour Relations (Miscellaneous Amendments) Ordinance 1997 (135 of 1997);

"Legislative Provisions (Suspension of Operation) Ordinance 1997" (《1997 年法律條文(暫時終止實施)條例》) means the Legislative Provisions (Suspension of Operation) Ordinance 1997 (Cap 538);

"Trade Unions (Amendment) (No. 2) Ordinance 1997" (《1997 年職工會(修訂)(第 2 號)條例》) means the Trade Unions (Amendment) (No. 2) Ordinance 1997 (102 of 1997).

(Added 135 of 1997 s. 10)

Part:	VII	PICKETING, INTIMIDATION AND CONSPIRACY		30/06/1997
-------	-----	---	--	------------

Section:	46	Peaceful picketing		30/06/1997
----------	----	---------------------------	--	------------

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 of \$1000 and to imprisonment for 6 months.

(Amended 15 of 1971 s. 21)

Section:	47	Intimidation and annoyance		30/06/1997
----------	----	-----------------------------------	--	------------

(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 of \$1000 and to imprisonment for 6 months.

(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 be setting of that place within the meaning of this section. (Amended 15 of 1971 s. 22)

Section:	48	Conspiracy in relation to trade disputes		30/06/1997
----------	----	---	--	------------

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

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

(3) Nothing in this section shall exempt from punishment any person guilty of a conspiracy for which a punishment is awarded by any enactment in force in Hong Kong. (Amended 47 of 1988 s. 3)

(4) Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace or

sedition or any offence against the State or the Sovereign.

(5) Where a person is convicted of any such agreement or combination as is referred to in subsection (1) to do or procure to be done any act that is punishable on summary conviction, and is sentenced to imprisonment, the imprisonment shall not exceed 3 months, or such longer term, if any, as may have been prescribed by the law for the punishment of such act when committed by one person.

(6) Nothing in this section shall be construed in any way to limit or prejudice any of the provisions of the Societies Ordinance (Cap 151).

Part:	VIII	MISCELLANEOUS OFFENCES RELATING TO REGISTERED TRADE UNIONS		30/06/1997
-------	------	---	--	------------

Section:	49	Punishment for withholding money or property of a registered trade union		30/06/1997
----------	----	---	--	------------

(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.

Section:	50	Circulating false copies of rules, etc.		30/06/1997
----------	----	--	--	------------

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 of \$500 and to imprisonment for 3 months.

Section:	51	(Repealed 18 of 1977 s. 5)		30/06/1997
----------	----	-----------------------------------	--	------------

Section:	52	Contravention of rules	30/06/1997
----------	----	-------------------------------	------------

(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 of \$200.

Part:	IX	TRADE UNION FEDERATIONS	30/06/1997
-------	----	--------------------------------	------------

Section:	53	Application to trade union federations	30/06/1997
----------	----	---	------------

(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.

Section:	54	Provisions as to application for registration of trade union federation	30/06/1997
----------	----	--	------------

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.

Section:	55	Trade union federation not to be registered unless component trade unions registered	30/06/1997
----------	----	---	------------

No trade union federation shall be registered by the Registrar unless each of the component trade unions comprising such trade union federation is a registered trade union.

(Amended 15 of 1971 s. 24; 102 of 1997 s. 7)

Note:

As to the suspension of operation of 102 of 1997, please see s. 3(1) of Cap 538. On 31 October 1997, that s. 3(1), to the extent that it was in effect immediately before 31 October 1997, ceased to have effect. Please see s. 12 of 135 of 1997.

Section:	56	Additions to membership of trade union federations	30/06/1997
----------	----	---	------------

(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 of \$500.

Note:

* **As to the suspension of operation of 102 of 1997, please see s. 3(1) of Cap 538. On 31 October 1997, that s. 3(1), to the extent that it was in effect immediately before 31 October 1997, ceased to have effect. Please see s. 12 of 135 of 1997.**

Section:	57	Officers of trade union federations	30/06/1997
----------	----	--	------------

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)

Note:

* **As to the suspension of operation of 102 of 1997, please see s. 3(1) of Cap 538. On 31 October 1997, that s. 3(1), to the extent that it was in effect immediately before 31 October 1997, ceased to have effect. Please see s. 12 of 135 of 1997.**

Part:	X	FORMS AND REGULATIONS	30/06/1997
-------	---	------------------------------	------------

Section:	58	Forms and offences in relation thereto	30/06/1997
----------	----	---	------------

(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 of \$500 and to imprisonment for 3 months.

- (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 of \$500 and to imprisonment for 3 months.

Section:	59	Regulations	56 of 2000	01/07/1997
----------	----	--------------------	------------	------------

Remarks:

Adaptation amendments retroactively made - see 56 of 2000 s. 3

- (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 of \$500.

Part:	XI	MISCELLANEOUS		30/06/1997
-------	----	----------------------	--	------------

Section:	60	Delegation of powers		30/06/1997
----------	----	-----------------------------	--	------------

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)

Section:	61	Liability of officers thereof where offence committed by trade union		30/06/1997
----------	----	---	--	------------

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.

Section:	62	Limit of time for complaints or information		30/06/1997
----------	----	--	--	------------

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.

Section:	63	Service of legal process and notices issued by Registrar		30/06/1997
----------	----	---	--	------------

(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)

Section:	64	Procedure, etc. upon appeal under Ordinance to Court of First Instance and Court of Appeal	25 of 1998 s. 2	01/07/1997
----------	----	---	-----------------	------------

Remarks:

Amendments retroactively made-see 25 of 1998 s. 2

(1) Subject to the provisions of this Ordinance, the practice and procedure upon and in connection with any appeal under this Ordinance to the Court of First Instance shall be subject to any rules of court made under the High Court Ordinance (Cap 4). (Amended 15 of 1971 s. 27)

(2) An appeal shall be from a decision of the Court of First Instance under this Ordinance to the Court of Appeal in accordance with section 14 of the High Court Ordinance (Cap 4). (Replaced 15 of 1971 s. 27)

(Amended 25 of 1998 s. 2)

Section:	65	Ordinance not to affect certain agreements		30/06/1997
----------	----	---	--	------------

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.

Section:	66	Notification in the Gazette		30/06/1997
----------	----	------------------------------------	--	------------

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)

Section:	67	Provisions of certain Ordinances not to apply to trade unions or trade union federations	L.N. 163 of 2013	03/03/2014
----------	----	---	------------------	------------

- (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)

Section:	68	Result of registration	L.N. 163 of 2013	03/03/2014
----------	----	-------------------------------	------------------	------------

(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)

Note:

* **Commencement date : 3 March 2014.**

Schedule:	1			30/06/1997
-----------	---	--	--	------------

[section 17]

Any offence involving-

- (a) fraud;
- (b) dishonesty;
- (c) extortion;
- (d) membership of a triad society.

(Added 15 of 1971 s. 29)

Schedule:	2	MATTERS FOR WHICH PROVISION MUST BE MADE IN THE RULES OF EVERY REGISTERED TRADE UNION	135 of 1997 s. 11	31/10/1997
-----------	---	--	-------------------	------------

[section 18]

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;
- (p) provide for the safe custody of the common seal of the trade union. (Added 15 of 1971 s. 30)