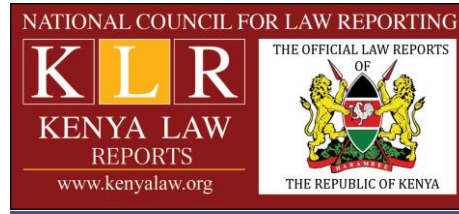


*(Repealed by Labour Relations Act (No 4 of 2007))*



## **LAWS OF KENYA**

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## **THE TRADE UNIONS ACT**

### **CAP. 233**

Published by the National Council for Law Reporting  
With the Authority of the Attorney-General

**CHAPTER 233**

**THE TRADE UNIONS ACT**

ARRANGEMENT OF SECTIONS

PART I- PRELIMINARY

*Section*

- 1-Short title
- 2-Interpretation

PART II-STAFF ASSOCIATIONS, EMPLOYEES' ASSOCIATIONS AND EMPLOYEES' ORGANISATIONS

- 3-Staff associations, etc., not trade unions in certain cases
- 4-Supervision and control of staff associations, etc

PART III-APPOINTMENT OF REGISTRAR AND OTHER OFFICERS

- 5-Appointment of Registrar
- 6-Appointment of Deputy and Assistant Registrars and other officers
- 7-Protection of officers

PART IV-REGISTRATION

- 8-Register of trade unions
- 9-Necessity for registration
- 10-Application for registration
- 11-Registration as trade union, and deferment of registration
- 12-Registration of probationary trade union as trade union
- 13-Certificate of registration
- 14-Power of Registrar to call for further particulars
- 15-Powers of Registrar to require alteration of name
- 16-Refusal of registration
- 17-Cancellation or suspension of registration
- 18-Appeal
- 19-Consequences of failure to register
- 20-Consequences of cancellation of registration
- 20A-Registration of branches of trade union
- 21-Consequences of suspension of registration

PART V-RIGHTS AND LIABILITIES

- 22-Rights of trade union pending registration
- 23-Immunity from civil suit in certain cases
- 24-Liability in tort
- 25-Liability in contract
- 26-Objects in restraint of trade not unlawful
- 27-Proceedings by and against trade unions
- 28-Membership of minors
- 29-Officers and members of trade union
- 29A-Purporting to act as officer of union or branch

- 30-Voting members of trade union
- 31-Change of name
- 32-Amalgamation
- 33-Notice of change of name or amalgamation
- 34-Effect of change of name or amalgamation
- 35-Registered office
- 36-Rules
- 37-Copies of rules
- 38-Notification of officers, etc.
- 39-Notification of dissolution
- 40-Trustees

PART VII-PROPERTY

- 41-Property to be vested in trustees
- 42-Devolution of property

PART VIII-FUNDS AND ACCOUNTS

- 43-Application of funds
- 44-Prohibition of payment of fines or penalties
- 45-Injunction to restrain misuse of funds
- 46-Treasurer to render accounts
- 47-Annual returns
- 48-Inspection of accounts and records
- 49-Obstructing inspection by Registrar
- 50-Power to require detailed accounts

PART IX-PICKETING, INTIMIDATION AND OTHER MATTERS RELATING TO DISPUTES

- 51-
- 52-
- 53-Conspiracy in trade disputes

PART X-REGULATIONS

- 54-Regulations

PART XI-OFFENCES AND PENALTIES

- 55-Penalty for misuse of money or property of a trade union
- 56-Penalty for failure to give notice or produce document
- 57-Limitation of prosecutions
- 58-Jurisdiction

PART XII-MISCELLANEOUS

- 59-Nomination
- 60-Inapplicability of certain laws
- 61-Saving of right to collect union subscription in public place
- 62-Service of legal process
- 63-Notification in Gazette

**SCHEDULE**

**CHAPTER 233**

**THE TRADE UNIONS ACT**

*Commencement: 1<sup>st</sup> August, 1952*

23 of 1952, 11 of 1956, 39 of 1956, 54 of 1960, 27 of 1961, 28 of 1961, L.N. 462/1963, 16 of 1964, L.N. 236/1964, 15 of 1965, 9 of 1967, 2 of 1977, 12 of 1981, 19 of 1982

**An Act of Parliament to provide for staff associations, employees' associations and employees' organisations, for the registration and control of trade unions, and for connected purposes**

PART I-PRELIMINARY

**Short title.**

1. This Act may be cited as the Trade Unions Act.

**Interpretation. 11 of 1956, s.2, L.N. 462/1963, L.N. 236/1964, 15 of 1965, S.52, 9 of 1967, Sch.**

2. (1) In this Act, except where the context otherwise requires -

"employee" means a person who has entered into or works under contract with an employer, whether the contract is for 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;

"employees' association" means an association or combination, whether temporary or permanent, of more than six employees who work for the same employer, which has as its principal purpose the regulation of relations between such employees and their employer or between such employees amongst themselves;

"employees' organization" means an association or combination, whether temporary or permanent, of more than six employees who work for different employers, which has as its principal purpose the regulation of relations between such employees and their employers or between such employees amongst themselves;

"executive" means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted, and includes the chairman, the secretary and the treasurer of any trade union;

"funds of a trade union" does not include any moneys standing to the credit of any contributory provident fund created for the benefit of members of a trade union:

"lock-out" 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 not with the intention of finally determining employment but with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

"officer", when used with reference to a trade union, includes a member of the executive thereof, and any officer of a branch, but does not include an auditor;

"probationary trade union" means a trade union which has applied, or which has been called upon by the Registrar to apply, to be registered as a trade union under this Act but whose registration has been deferred under section 11;

"register" means the register of trade unions maintained by the Registrar under section 8;

"registered office" means that office within Kenya of a trade union which is registered under section 35 as the head office of the trade union;

"registered trade union" means a trade union registered as a trade union under this Act or registered as a trade union at the commencement of this Act under the provisions of any Act repealed by this Act;

"Registrar" means the person for the time being appointed under section 5 to be or to act as Registrar of Trade Unions, and includes any person appointed under section 6 to be or to act as a Deputy or an Assistant Registrar of Trade Unions;

"staff association" means an association or combinations, whether temporary or permanent, of more than six employees employed in a civilian capacity under the Government or a local authority or local authorities, the principal object of which is the regulation of the relations between such employees and the Government or such local authority or local authorities or between such employees amongst themselves;

"strike" 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 any person or body of persons employed, or to aid other employees in compelling their employer, or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment;

"trade dispute" means a dispute or difference between employers and employees, or between employees and employees, connected with the employment or non-employment, or the terms of the employment, or the conditions of labour, of any person;

"trade union" means -

(a) an association or combination, whether temporary or permanent, of more than six persons (other than a staff association, employees' association, or employees' organization not deemed to be a trade union under section 3), the principal objects of which are under its constitution the regulation of the relations between employees and employers, or between employees and employees, or between employers and employers, whether such combination would or would not, if this Act or any Act thereby repealed 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; or

(b) an association or combination of trade unions:

Provided that nothing in this Act shall -

(i) affect -

(a) any agreement between partners as to their own business: or

(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; or

(ii) preclude any trade union from providing benefits for its members.

(2) Whenever by this Act the approval of the Registrar for the doing of any act is required, there shall be implied a power in the Registrar to refuse his approval or to grant his approval subject to such conditions as he may impose, and for good cause to revoke any approval so granted.

## PART II - STAFF ASSOCIATIONS, EMPLOYEES' ASSOCIATIONS AND EMPLOYEES' ORGANIZATIONS

### **Staff associations, etc., not trade unions in certain cases.**

**3.** (1) A staff association or an employees' association or an employees' organization shall not, by reason only of its having as its principal object or as one of its principal objects the regulation of relations between employees and an employer or employers, or between employees and employees, be deemed to be a trade union for the purposes of this Act, unless -

(a) it, or any person on its behalf, collects from members or from any other person any subscription or pecuniary contribution to its funds, other than an annual contribution to an office expense fund or a welfare fund, or creates any fund other than an office expense fund or a welfare fund; or

(b) it applies to be registered as a trade union; or

(c) it is notified by the Registrar that it is required to register as a trade union within a period specified in such notification; or

(d) in the case of an employees' organization, it has not received the approval of the Registrar to its continuance in existence under subsection (1) of section 4.

(2) Upon the happening of any of the events mentioned in paragraph (a) or paragraph (b) of subsection (1), or upon the expiration of the period specified under paragraph (c) of that subsection, the staff association, employees' association or employees' organization, as the case may be, shall be deemed to be a trade union.

(3) In this section, "office expense fund" means a fund used solely for the purposes of defraying office rent, the salaries of menial or part-time office staff, the cost of stationery and postage and other office expenses, and not used for defraying the salary of an executive officer or secretary; and "welfare fund" means a fund used for welfare purposes.

**Supervision and control of staff associations, etc.**

**4.** (1) No employees' organization shall be established or, if already established at the commencement of this Act, shall continue in existence without the approval in writing of the Registrar.

(2) A staff association or an employees' association or employees' organization shall, if so requested by the Registrar, furnish him with copies of its constitution, rules and balance sheet.

(3) If any staff association, employees' association or employees' organization fails to comply with a request made by the Registrar under subsection (2), then the association or organization and any officer or person acting or purporting to act as an officer thereof shall be guilty of an offence and liable to a fine not exceeding one hundred shillings.

PART III-APPOINTMENT OF REGISTRAR AND OTHER OFFICERS

**Appointment of Registrar. L.N. 462/1963**

**5.** The Minister shall appoint a Registrar of Trade Unions, who shall be responsible for the due performance of the duties and functions assigned to him as Registrar under this Act.

**Appointment of Deputy and Assistant Registrars and other officers. 28 of 1961, Sch., L.N. 462/1963.**

**6.** The Minister may appoint a Deputy Registrar of Trade Unions and one or more Assistant Registrars of Trade Unions and such other officers as may from time to time be required for the purposes of this Act.

**Protection of officers.**

**7.** No suit shall lie against any officer appointed under section 5 or section 6 for anything done or omitted to be done by him in good faith and without negligence and in intended exercise of any power or performance of any duty conferred or imposed by this Act.

PART IV-REGISTRATION

**Register of trade unions.**

**8.** (1) The Registrar shall keep and maintain, in such form as may be prescribed, a register of trade unions in which shall be recorded the prescribed particulars relating to any registered trade union and any alteration or change which may from time to time be effected in the name, rules, officers or executive thereof or in the situation of the registered office thereof, and all such other matters as may be required to be recorded therein under this Act and any regulation made thereunder.

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

**Necessity for registration.**

**9.** (1) Every trade union not registered as a trade union before the commencement of this Act shall apply to be registered as a trade union under this Act, within a period of twenty-eight days reckoned from the commencement of this Act or the date of its formation whichever date is later.

(2) *(Deleted by 16 of 1964, s. 2.)*

(3) For the purposes of this section, a trade union is deemed to be formed on the first date on which more than six employees or employers, as the case may be, or in the case of an association of trade unions, two or more trade unions, agree in writing to become or to form a trade union or, in the case of a staff association, employees' association or employees' organization, on the date when such association or organization is deemed to be a trade union under subsection (2) of section 3.

(4) If any trade union fails to apply for registration in accordance with this section, the trade union and every officer and every person acting or purporting to act as an officer thereof shall be guilty of an offence and liable to a fine not exceeding five thousand shillings, and every officer and any person acting or purporting to act as an officer thereof shall, in addition, be liable to imprisonment for a term not exceeding six months.

**Application of registration. 16 of 1964, s.3, 15 of 1965, s.52.**

**10.** (1) Every application for registration as a trade union shall be made to the Registrar in the prescribed form, and shall be signed by at least seven members of the union, any of whom may be officers thereof:

Provided that in the case of an association of trade unions the prescribed form shall be signed by the chairman and general secretary of each of the member trade unions.

(2) Every application for registration shall be accompanied by the prescribed fee and by a copy of the rules of the union and a statement of the following particulars, namely-

(a) the names, occupations and addresses of members making the application (or in the case of an association of trade unions, the name and address of the registered office of each member trade union);

(b) the name of the union and the address of its registered office; and

(c) the titles, names, ages, addresses and occupations of the officers of the union.

**Registration as trade union, and deferment of registration.**

**11.** The Registrar, if he is satisfied that none of the grounds on which, under section 16, registration may be refused exists, shall register the trade union in the prescribed manner as a trade union or, in his discretion, shall defer its registration and notify it accordingly, and upon that deferment the trade union shall become a probationary trade union.



**Registration of probationary trade union as trade union.**

**12.** After the expiration of three months and before the expiration of twelve months from the date of deferment of registration of a trade union under section 11, the Registrar, either on the application of the probationary trade union or of his own motion, shall, if he is satisfied that none of the grounds on which, under section 16, registration may be refused exists, register the probationary trade union as a trade union in the manner prescribed.

**Certificate of registration.**

**13.** The Registrar, on registering a trade union under section 11 or section 12, shall issue to the trade union a certificate of registration in the prescribed form, and that certificate, unless proved to have been cancelled or withdrawn, shall be conclusive evidence for all purposes that the trade union has been duly registered under this Act.

**Power of Registrar to call for further particulars.**

**14.** The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 10 or that the trade union is entitled to registration under this Act.

**Powers of Registrar to require alteration of name.**

**15.** If the name under which a trade union is proposed to be registered is identical with that by which any other existing trade union has been registered or in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive or mislead the public or the members of either trade union, the Registrar shall require the persons applying for registration to alter the name of the trade union stated in the application, and shall refuse to register the trade union until the alteration has been made.

**Refusal of registration. 11 of 1956, s.4, 16 of 1964, s.4, 15 of 1965, s.52.**

**16.** (1) The Registrar may refuse to register any trade union or probationary trade union if he is satisfied that -

- (a) the union has not complied with the provisions of this Act or of any regulations made thereunder; or
- (b) any of the objects of the constitution of the union is unlawful or conflicts with any such provision; or
- (c) the union is used for unlawful purposes; or
- (d) any other trade union already registered is -
  - (i) in the case of a trade union of employers or of employees, sufficiently representative of the whole or of a substantial proportion of the interests in respect of which the applicants seek registration; or

(ii) in the case of an association of trade unions, sufficiently representative of the whole or a substantial proportion of the trade unions eligible for membership thereof:

Provided that the Registrar shall, by notice in the Gazette or otherwise, notify any registered trade unions which appear to him to represent the same interests as the applicants of the receipt of such application and shall invite the registered trade unions concerned to submit in writing within a period to be specified in the notice any objections which any such trade unions may wish to make against the registration; or

(e) the principal purposes of the trade union seeking registration are not in accord with those set out in the definition of "trade union" contained in section 2; or

(f) the trade union (not being an association of trade unions) seeking registration is an organization consisting of persons engaged in, or working at, more than one trade or calling, and that its constitution does not contain suitable provision for the protection and promotion of their respective sectional industrial interests; or

(g) the funds of the union are being applied in an unlawful manner or upon any unlawful object or any object not authorized by this Act or any regulations made thereunder; or

(h) the accounts of the union are not being properly kept; or

(i) the secretary or treasurer of the union is, in his opinion, incapable, by reason of not being sufficiently literate in the English or Swahili language, of carrying out adequately the duties of secretary or treasurer, as the case may be.

(2) When the Registrar refuses to register a trade union, he shall notify the applicants in writing of the grounds of that refusal, and the following provisions shall have effect -

(a) if the trade union, before it became a trade union or applied for registration as a trade union, was a staff association, employees' association or employees' organization, it may, within one month of the notification by the Registrar or, if an appeal is taken under section 18, within one month from the dismissal of the appeal, elect to revert to its former status as such association or organization, and, in default of such election within the time aforesaid, it shall be dissolved; or

(b) if the trade union, before it became a trade union or applied for registration as a trade union, was not such an association or organization as aforesaid, the trade union shall be dissolved within one month of the notification by the Registrar or, if an appeal is taken as aforesaid and dismissed, within one month of dismissal of the appeal.

(3) If any trade union whose dissolution is required by subsection (2) is not dissolved within the time allowed, then the trade union and every officer and any person acting or purporting to act as an official thereof shall be guilty of an offence and liable to a fine not exceeding five thousand shillings, and every officer and any person acting or purporting to act as an officer thereof shall, in addition, be liable to imprisonment for a term not exceeding six months.

**Cancellation or suspension of registration. 11 of 1956, s.5, 16 of 1964, s.5.**

**17.** (1) The registration and the certificate of registration of a registered trade union may be cancelled by the Registrar -

(a) at the request of the trade union upon its dissolution, to be verified in such manner as the Registrar may require; or

(b) if he is satisfied that the trade union has ceased to exist.

(2) The registration and the certificate of registration of a registered trade union may be cancelled or suspended by the Registrar if he is satisfied -

(a) that the registration was obtained by fraud, misrepresentation or mistake;

(b) that any of the objects of the trade union is unlawful;

(c) that the constitution of the trade union or of its executive is unlawful;

(d) that the trade union is being used for an unlawful purpose;

(e) that the trade union has willfully and after notice from the Registrar contravened any provisions of this Act or any regulations made thereunder or any rules of the trade union;

(f) that the funds of the trade union are expended in an unlawful manner or on an unlawful object or on an object not authorized by this Act and any regulations made thereunder;

(g) that the trade union being an organization consisting of persons engaged in or working at more than one trade or calling and having a constitution providing for the protection and promotion of the respective sectional industrial interests of its members has failed to carry out those provisions of its constitution; or

(h) that the objects for which the trade union is actually carried on are such that had they been declared as objects of the constitution of the union at the time of application for registration the Registrar could properly have refused registration:

Provided that where the registration is suspended under this subsection the Registrar shall, before the expiration of six months from the date of that suspension, either restore the registration or cancel the registration and certificate.

(3) Except in a case falling within subsection (1), not less than two months' previous notice in writing specifying the ground on which it is proposed to cancel its registration shall be given by the Registrar to a trade union before the registration is cancelled, and not less than one month's previous notice in writing specifying the ground upon which it is proposed to suspend its registration shall be given by the Registrar to a trade union before the suspension.

(4) A trade union served with a notice under subsection (3) may, at any time within a period of two months in the case of a notice of cancellation and one month in the case of a notice of suspension, both periods to be reckoned from the date of the notice, show cause in writing against the proposal to cancel or suspend its

registration, as the case may be; and, if cause is shown, the Registrar may hold such inquiry as he may consider necessary in the circumstances.

(5) The Registrar may, after the expiration of the period of two months or one month, as the case may be, referred to in subsection (4), cancel or suspend the registration of any trade union which has failed to show cause under that subsection or which, having so shown cause, has failed to satisfy him that its registration should not be cancelled or suspended as the case may be.

(6) An order made by the Registrar under this section canceling or suspending the registration of any trade union shall be dated as of the date on which it was made, shall specify briefly the grounds for the cancellation or suspension of the registration and shall forthwith be served on the trade union affected thereby.

**Appeal. 27 of 1961, Sch.**

**18.** (1) Any person aggrieved by the refusal of the Registrar to register a trade union as a trade union or by an order made by the Registrar under section 17 may, within one month of the date of the refusal or order, as the case may be, appeal against the refusal or order to the Industrial Court, and on such appeal the Industrial Court may make any such order as it thinks proper, including any directions as to the costs of the appeal; and any such order of the Industrial Court shall be final.

(2) The Chief Justice may make rules of court governing such appeals, providing for the method of giving evidence, and prescribing the fees to be paid, the procedure to be followed and the manner of notifying the Registrar of the appeal.

(3) The Registrar shall be entitled to be heard on any appeal.

**Consequences of failure to register. 16 of 1964, s.6, 11 of 1956, s.6.**

**19.** (1) No trade union shall perform any act in furtherance of the purposes for which it has been formed unless application has been made by that trade union for registration in accordance with the provisions of this Act, but the provisions of this subsection shall not apply to a person taking part in the management or organization of the trade union or acting on behalf of or as an officer of the trade union for the purpose of -

(a) defending proceedings against the union; or

(b) dissolving the union and disposing of its funds in accordance with the rules of the union.

(2) If any trade union does not apply for registration then the trade union shall not enjoy any of the rights, immunities or privileges of a registered or probationary trade union but shall be subject to any liabilities incurred by the trade union which may be enforced against the trade union and its assets and shall be dissolved as from the date required by any notice in writing from the Registrar requiring such dissolution.

(3) Any trade union and any officer or person acting or purporting to act as an officer thereof who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding five thousand shillings, and every officer and any

person acting or purporting to act as an officer thereof shall, in addition, be liable to imprisonment for a term not exceeding six months.

(4) If any trade union whose dissolution is required by subsection (2) is not dissolved within the time allowed, then the trade union and every officer and any person acting or purporting to act as an officer thereof shall be guilty of an offence and liable to a fine not exceeding five thousand shillings and every officer and any person acting or purporting to act as an officer thereof shall, in addition, be liable to imprisonment for a term not exceeding six months.

**Consequences of cancellation of registration. 11 of 1956, s.7, 16 of 1964, s.7.**

**20.** (1) If the registration of any registered trade union is cancelled, then -

(a) the trade union shall cease to enjoy any of the rights, immunities or privileges of a registered trade union, but without prejudice to any liabilities incurred, or to be incurred, by the trade union which may be enforced against the union and its assets;

(b) the trade union shall not, nor shall any of its officers or any person acting or purporting to act as an officer on behalf of the union, take part in any trade dispute or promote, organize or finance any strike or lock-out or provide pay or other benefits for its members for the purpose of supporting, or in connexion with, a strike or lock-out during a strike or lock-out;

(c) the trade union shall be dissolved and its funds shall be disposed of in accordance with the rules of the union; and

(d) no person shall, except for the purpose of defending proceedings against the union or dissolving the union and disposing of its funds in accordance with the rules, take any part in its management or organization, or act or purport to act on behalf of the union or as an officer of the union.

(2) If any trade union is not dissolved within three months, or such extended time as the Registrar may, in any particular case allow, after-

(a) the date of the order of cancellation made by the Registrar under section 17; or

(b) the date of the dismissal of an appeal taken under section 18,

as the case may be, then the trade union and every officer and any person acting or purporting to act as an officer thereof shall be guilty of an offence and liable to a fine not exceeding five thousand shillings, and every officer and any person acting or purporting to act as an officer thereof shall, in addition, be liable to imprisonment for a term not exceeding six months.

(3) Any trade union or any officer or person acting or purporting to act as an officer on behalf of the trade union, who contravenes any of the provisions of paragraph (b) of subsection (1), and any person who contravenes any of the provisions of paragraph (d) of subsection (1), shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings, and every officer and any person acting or purporting to act as an officer thereof shall, in addition, be liable to imprisonment for a term not exceeding one year.

**Registration of branches of trade union. 16 of 1964, s.8**

**20A.** (1) Application for registration of a branch of a trade union shall be made by the secretary of the trade union concerned within twenty-eight days from the date of its formation and shall be signed by the secretary; it shall be accompanied by the prescribed fee (if any) and shall contain the following particulars –

(a) the name of the union concerned, the name of the branch, the postal address of the branch office or of the place of meeting for carrying out the business of the branch; and

(b) the titles, names, ages, addresses and occupations of all the officers of the branch.

(2) Whenever any branch of a trade union is dissolved, notice of the dissolution shall be given by the secretary of the trade union concerned to the Registrar, who shall, subject to subsection (3) and subsection (4), thereupon cancel the registration of that branch.

(3) Before registering a branch of a trade union or canceling the registration of a branch of a trade union, the Registrar may require the production of such evidence relating to the formation or dissolution of the branch as he deems necessary.

(4) If, after such inquiry as he deems necessary, the Registrar is not satisfied as to the validity or propriety of the purported formation or dissolution of a branch of a trade union, he may refer the matter to a Trade Unions Tribunal composed of one or more independent persons appointed by the Minister, and that Tribunal shall inquire into the matter and make its recommendations thereon to the Registrar, who shall thereupon register or refuse to register the branch, or cancel the registration of the branch, as the case may be, in accordance with such recommendations.

(5) If the Registrar has reason to believe that a branch of a trade union has been dissolved, or that it has ceased to function, although no notification of dissolution has been received, he may refer the matter to a Trade Unions Tribunal composed of one or more independent persons appointed by the Minister, and that Tribunal shall thereupon inquire into the matter and send its report together with its recommendation to the Registrar, who shall, if the Tribunal so recommends, cancel the registration of the branch.

(6) In this section "branch" includes sub-branch.

(7) Any person aggrieved by the refusal of the Registrar to register a branch or to cancel the registration of a branch, or by the cancellation by the Registrar of the registration of a branch, under this section may, within one month of the date of the refusal or cancellation, as the case may be, appeal against the refusal or cancellation to the High Court, and on such appeal the High Court may make any such order as it thinks proper, including any directions as to the costs of the appeal; and any such order of the High Court shall be final.

(8) The Chief Justice may make rules of court governing appeals under this section, providing for the method of giving evidence, and prescribing the fees to be paid and

the procedure to be followed, and the manner of notifying the Registrar of the appeal.

(9) The Register shall be entitled to be heard on any appeal..

**Consequences of suspension of registration. 11 of 1956, s.8., 16 of 1964, s.9.**

**21.** (1) If the registration of any trade union is suspended, then during the period of the suspension -

(a) the trade union shall cease to enjoy any of the rights, immunities or privileges of a registered trade union, but without prejudice to any liabilities incurred by the union which may be enforced against the union and its assets;

(b) the union shall not take part, neither shall any of its officers or any person acting or purporting to act as an officer on behalf of the union take part, in any trade dispute or promote, organize or finance any strike or lock-out, or provide pay or other benefits for its members for the purpose of supporting, or in connection with, a strike or lock-out.

(2) Any trade union which, or any officer or person acting or purporting to act as an officer on behalf of the union who, contravenes the provisions of paragraph (b) of subsection (1) shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings, and every officer and any person acting or purporting to act as an officer thereof shall, in addition be liable to imprisonment for a term not exceeding one year.

PART V-RIGHTS AND LIABILITIES

**Rights of trade union pending registration.**

**22.** (1) Subject to subsection (2), no trade union shall enjoy any of the rights, immunities or privileges of a registered trade union until it is registered.

(2) A probationary trade union shall, pending its registration as a registered trade union, enjoy all the rights, immunities and privileges and be subject to the liabilities and obligations of a registered trade union, except that no probationary trade union shall be entitled to amalgamate with another trade union.

**Immunity from civil suit in certain cases.**

**23.** No suit or other legal proceedings shall be maintainable in any civil court against any registered trade union or any officer or member thereof in respect of any act done in contemplation or in furtherance of a trade dispute to which a member of the trade union is a party on the ground only that the act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

**Liability in tort.**

**24.** (1) A suit against a registered trade union or against any member or officer thereof on behalf of themselves and all other members of the trade union in respect of any tortious act alleged to have been committed by or on behalf of the trade union shall not be entertained by any court.

(2) Nothing in this section shall affect the liability of a trade union or any member or officer thereof to be sued in any court touching or concerning the property or rights of a trade union except in respect of any tortious act committed by or on behalf of the trade union in contemplation or in furtherance of a trade dispute.

**Liability in contract.**

**25.** (1) Every trade union shall be liable on any contract entered into by it or by an agent acting on its behalf:

Provided that a trade union shall not be so liable on any contract which is void or unenforceable at law.

(2) Nothing in this Act shall enable any court to entertain any legal proceedings 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 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 to 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

(iii) to discharge any fine imposed upon any person by sentence of a court of justice;

(d) any agreement made between one trade union and another; or

(e) any bond to secure the performance of any of the agreements referred to in paragraphs (a) to (d); but nothing in this subsection shall be deemed to render any of those agreements unlawful.

**Objects in restraint of trade not unlawful.**

**26.** The objects of a registered trade union shall not, by reason only that they are in restraint of trade -



(a) be deemed to be unlawful so as to render any member of the trade union liable to criminal prosecution for conspiracy or otherwise; or

(b) be unlawful so as to render void or voidable any agreement or trust.

### **Proceedings by and against trade unions**

**27.** (1) A registered trade union may sue and be sued and be prosecuted under its registered name.

(2) An unregistered trade union, and a staff association, employees' association or employees' organization, may sue and be sued and be prosecuted under the name by which it has been operating or is generally known.

(3) A trade union whose registration has been cancelled or suspended may sue and be sued and be prosecuted under the name by which it was registered.

(4) Execution for any money recovered from a staff association, employees' association, employees' organization or trade union in civil proceedings may issue against any property belonging to or held in trust for the staff association, employees' association, employees' organization or trade union.

(5) Any fine ordered to be paid by a staff association, employees' association, employees' organization or trade union may be recovered by distress and sale of any property belonging to or held in trust for the staff association, employees' association, employees' organization or trade union in accordance with the provisions of the Criminal Procedure Code. (Cap 75)

## **PART VI-CONSTITUTION**

### **Membership of minors.**

**28.** A person under the apparent age of twenty-one but above the apparent age of sixteen may be a member of a staff association, employees' association, employees' organization, probationary trade union or registered trade union unless provision is made in the rules thereof to the contrary, and may, subject to those rules, enjoy all the rights of a member except as in this Act provided, and execute all instruments and give all acquaintances necessary to be executed or given under the rules, but shall not be a member of the executive or a trustee of a probationary trade union or a registered trade union.

### **Purporting to act as officer of union or branch, 16 of 1964, s.10**

**29A.** Any person acting or purporting to act as an officer of a trade union or a branch of a trade union which has not been registered or of which the registration has been cancelled shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

### **Voting members of trade union. 15 of 1965, s.52**

**30.** (1) No person shall be a voting member of a trade union unless he is employed or resident or, in the case of a trade union, has its registered office, within

Kenya.

(2) No person shall be a voting member of a trade union if his monthly subscription is more than thirteen weeks in arrear.

### **Change of name**

**31.** Any trade union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 33, change its name.

### **Amalgamation.**

**32.** Any two or more registered trade unions may become amalgamated together as one trade union with or without dissolution or division of the funds of those trade unions or either or any of them if in the case of each such trade union, on a secret ballot being taken in the manner prescribed, the votes of at least fifty per centum of the members entitled to vote thereat are recorded and of the votes recorded those in favour of the proposal exceed by twenty per centum or more the votes against the proposal; and where the trade unions proposing to amalgamate represent more than one trade or calling no amalgamation shall be proceeded with without the sanction of the Minister.

### **Notice of change of name or amalgamation.**

**33.** (1) Notice in writing shall be given to the Registrar of every change of name and of every amalgamation, signed, in the case of a change of name, by the secretary and by seven members of the trade union changing its name, and, in the case of an amalgamation, by the secretary and by seven members of each registered trade union which is a party thereto.

(2) If the proposed name is identical with that by which any other existing probationary trade union is known or by which any other existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either trade union, the Registrar shall refuse to register the change of name.

(3) Except as provided in subsection (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the prescribed manner, and the change of name shall have effect from the date of the registration.

(4) If the Registrar is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the trade union formed thereby would be entitled to be registered under this Act, he shall register the trade union in the prescribed manner and the amalgamation shall have effect from the date of the registration.

(5) Any persons aggrieved by the refusal of the Registrar to register either a change of name of a registered trade union or the trade union formed by the amalgamation of any two or more registered trade unions may appeal against that refusal in manner provided by section 18.

**Effect of change of name or amalgamation.**

**34.** (1) A change in the name of a trade union shall not affect any right or obligation of that trade union or render defective any legal proceeding by or against that trade union, and any legal proceeding which might have been continued or commenced by or against it under its former name may be continued or commenced by or against it under its new name.

(2) An amalgamation of two or more registered trade unions shall not prejudice any right of either or any of those trade unions or any right of a creditor of either or any of them.

**Registered office. 11 of 1956, s.9., 16 of 1964, s.11**

**35.** (1) Every trade union shall have a registered office and postal address to which all communications and notices may be addressed.

(2) Notice of the situation of the registered office and of any change thereof or of such postal address shall be given to the Registrar, and shall be registered by him, and the trade union shall not be deemed to have complied with the provisions of this Act until that notice has been given.

(3) If a trade union -

(a) operates without having a registered office, or without giving notice of the situation of its registered office as required under subsections (1) and (2); 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) fails to give notice of any change of its postal address, then the trade union and every officer and any person acting or purporting to act as an officer thereof shall be guilty of an offence and liable to a fine not exceeding five thousand shillings, and every officer and any person acting or purporting to act as an officer thereof shall, in addition, be liable to imprisonment for a term not exceeding six months.

**Rules. 11 of 1956, s.10**

**36.** (1) The rules of every trade union shall provide for all the matters specified in the Schedule.

(2) Every amendment or alteration of the rules of a trade union shall be sent to the Registrar within seven days of the making of the amendment or alteration, and, subject to the provisions of subsection (3), shall be registered by the Registrar upon payment of the prescribed fee.

(3) No amendment or alteration of the rules of a trade union shall have effect until registered by the Registrar, and the Registrar shall refuse to register the amendment or alteration if he is satisfied that, by reason of that amendment or alteration -

(a) the principal objects of the trade union would no longer be in accord with those set out in the definition of "trade union" contained in section 2; or

(b) any of the objects of the trade union would be unlawful or would conflict with the provisions of this Act or any regulations made thereunder; or

(c) the rules would cease to contain provisions in respect of any of the matters specified in the Schedule;

and the Registrar may refuse to register any amendment or alteration of the rules of a trade union if he is satisfied that, by reason of the amendment or alteration, the trade union seeks to represent interests the whole or a substantial proportion of which are in his opinion sufficiently represented by any other trade union already registered.

(4) Any person aggrieved by the refusal of the Registrar to register an amendment or alteration of the rules of a trade union may appeal against the refusal in manner provided by section 18 and the provisions of that section shall apply *mutatis mutandis* to that appeal.

#### **Copies of rules.**

**37.** A copy of the rules of a probationary or registered trade union shall be delivered by the trade union to any member of that trade union on application, and to any person entitled to apply to become a member of the union on application and payment of a sum not exceeding one shilling.

#### **Notification of officers, etc. 165 of 1964, s.12, 15 of 1965, s.52, 12 of 1981, Sch.**

**38.** (1) A notice giving the names of all officers and their titles shall be prominently exhibited in the registered office of every trade union and in every branch office thereof and a notice giving the names and titles of the officers of the branch shall be likewise exhibited.

(2) Notice of all changes of officers or of the title of any officer shall, within seven days after the change, be sent to the Registrar by the trade union together with the prescribed fee, and the Registrar shall, subject to subsections (4) and (5), register the change accordingly.

(3) Notice of any change in the membership of any trade union which is an association of trade unions shall be sent to the Registrar together with the prescribed fee within seven days after the change, and the Registrar shall, subject to subsections (4) and (5), correct the register accordingly.

(4) Before registering any change of officers or correcting any register the Registrar may require the production of such evidence in relation to the change of officers or the correction asked for as he deems necessary to satisfy him as to their validity or propriety.

(5) If, after such enquiry as he deems necessary, the Registrar is not satisfied as to the validity of any appointment or the propriety of any proposed correction to the register, he may refuse to register the change of officers or to correct the register, or he may refer the matter to a Trade Unions Tribunal composed of one or more independent persons appointed by the Minister, and in that case the Tribunal shall inquire into the matter and make its recommendations thereon to the Registrar, who

shall thereupon register or refuse to register, or correct or refuse to correct, in accordance with those recommendations.

(6) No change of officers shall have effect until registered by the Registrar.

(7) Any person who acts or purports to act as an officer of a trade union or of any branch thereof and who is not registered with the Registrar as an officer of that trade union or branch shall be guilty of an offence and shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

(8) The rules of a trade union shall provide for the election or re-election by secret ballot of all the officers of the trade union, at elections to be held not less than once in every year.

(9) If elections for the election or re-election of officers are not held within the period or in the manner prescribed by this Act or by the rules of the union concerned, then every officer of the trade union and any person acting or purporting to act as an officer thereof shall be guilty of an offence and liable to a fine not exceeding five thousand shillings and every officer and any person acting or purporting to act as an officer thereof shall, in addition, be liable to imprisonment for a term not exceeding six months.

(10) Any party aggrieved by the refusal of the Registrar to register a change of officers, or to correct the register under this section may, within one month of the date of the refusal, appeal against the refusal to the High Court, and on that appeal the High Court may make any such order as it thinks proper, including any directions as to the costs of the appeal; and the order of the High Court shall be final.

(11) The Chief Justice may make rules of court governing appeals under subsection (10), providing for the method of giving evidence, and prescribing the fees to be paid, the procedure to be followed and the manner of notifying the Registrar of the appeal.

(12) The Registrar shall be entitled to be heard on any appeal.

**Notification of dissolution. 15 of 1965, s.52.**

**39.** When a trade union is dissolved, notice of the dissolution signed by seven members and by the secretary of the trade union (or, in the case of a trade union which is an association of trade unions, signed by the secretary and two other officers of the trade union) shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the trade union; and the dissolution shall have effect from the date of the registration.

**Trustees. 11 of 1956, s.11**

**40.** (1) The rules of a trade union shall provide for the appointment or election of trustees and for the filling of any vacancy in the office of a trustee so that, as far as may be, there shall always be at least three trustees of the union.

(2) Subject to section 28, any officer or member of a trade union may be a trustee thereof.

(3) No person who has been convicted of a crime involving fraud or dishonesty shall be a trustee of a trade union.

#### PART VII-PROPERTY

##### **Property to be vested in trustees. 19 of 1982, Sch.**

**41.** All property, movable or immovable, of a probationary or registered trade union shall be vested in its trustees for the use and benefit of the union and its members, and shall be under the control of the trustees:

Provided that the Minister may, with the consent of the trade union concerned and by notice in the Gazette, authorize the transfer of specified property of that trade union to persons other than its trustees, or for public purposes other than the use of the union and its members, which may be prescribed.

##### **Devolution of property.**

**42.** Upon any change in the office of any trustee, the property of a probationary or registered trade union shall vest in the trustees for the time being of the union for the same estate and interest as the former trustee or trustees had therein, and subject to the same trusts, without any transfer, conveyance or assignment.

#### PART VIII-FUNDS AND ACCOUNTS

##### **Application of funds. 16 of 1964, s.13**

**43.** The funds of a trade union may, subject to the rules thereof and to the provisions of this Act, be expended only for the following objects -

(a) the payment of salaries, allowances and expenses to officers of the trade union;

(b) the payment of expenses for the administration of the trade union, including audit of the accounts of the funds of the trade union;

(c) the prosecution or defence of any legal proceeding to which the trade union or any member thereof is a party, when the prosecution or defense 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 the 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) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of those members;

(g) the payment of subscriptions and fees to any federation of trade unions to which the trade union may be affiliated; and

(h) any other object which, by notification in the Gazette, the Minister may, on the application of any trade union, declare to be an object for which such funds may be expended, such expenditure to be subject to such conditions as the Minister may by the same or any subsequent notification direct.

**Prohibition of payment of fines or penalties.**

**44.** The funds of a trade union shall not be applied either directly or indirectly in payment of the whole or any part of a fine or penalty imposed upon any person by sentence or order of a court of justice, other than a fine or penalty imposed upon the union under this Act or any regulations made thereunder.

**Injunction to restrain misuse of funds.**

**45.** An injunction restraining an unauthorized or unlawful expenditure of the funds of a trade union may be granted on the application of five or more persons having a sufficient interest in the relief sought, or of the Registrar, or of the Attorney-General, and in granting the injunction the court, in the case of the dissolution of any trade union upon the cancellation of its registration, may order that the funds of that trade union be paid over to the Public Trustee for disposal in accordance with the rules of that trade union.

**Treasurer to render accounts. 16 of 1964, s.14, 2 of 1977, s.46.**

**46.** (1) Every treasurer of a trade union and every other officer thereof who is responsible for the accounts of the union, or for the 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 by the rules of the union and at any other times at which he may be required to do so by a resolution of the members of the union or by the rules thereof or by the Registrar, render to the union and its members or the Registrar, as the case may be, a just and true account of all moneys received and paid by him during the period which has elapsed since the date of his assuming office or, if he has previously rendered an account, since the last date upon which he rendered the account, and of the balance remaining in his hands at the time of rendering that 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 account shall be verified by statutory declaration, and the union shall cause the account to be audited by the holder of a practicing certificate issued pursuant to section 21 of the Accountants Act.

(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 required by them to do so, forthwith hand over to the trustees of the union such balance as appears to be due from him, and all bonds, securities, effects, books, papers and property of the union in his hands or custody or otherwise under his control.

(5) Any treasurer or other officer who is responsible for the accounts of a trade union who neglects or fails to comply with any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

(6) Any person who wilfully makes or orders or causes or procures to be made any false entry in or omission from an account rendered to the union or to the Registrar under subsection (1) shall be guilty of an offence and liable to imprisonment for a term not exceeding one year and shall, in addition, be liable to corporal punishment not exceeding twelve strokes.

**Annual returns. 16 of 1964. s.15.**

**47.** (1) The secretary of every probationary trade union and of every registered trade union shall furnish annually to the Registrar on or before the prescribed date in each year a general statement, audited in the prescribed manner, of all receipts and expenditure during the period of twelve months ending on the thirty-first day of December next preceding such prescribed date including all sums of money received by way of donations or grants from any local or overseas sources, together with a list of assistance received by way of any kind of goods from any sources, and of the assets and liabilities of the trade union as at such thirty-first day of December; the statement shall be accompanied by a copy of the auditor's report and shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement referred to in subsection (1), the secretary of each trade union shall furnish to the Registrar a copy of all alterations and amendments of rules, and of all new rules, and a list of all changes of officers, made by the union during the period of twelve months preceding the thirty-first day of December, and a copy of the rules of the trade union in force on that day.

(3) In the case of a trade union which was registered before the commencement of this Act, it shall be lawful for the Registrar, on application made to him in that behalf, by writing under his hand to substitute the day on which the financial year of that trade union ends for the thirty-first day of December mentioned in subsections (1) and (2), and, if necessary, some other date for the date prescribed, for the purposes of subsection (1); and all the provisions of this section shall thereupon apply accordingly in the case of that registered trade union as though the day and the date so substituted were respectively the date referred to in subsections (1) and (2).

(4) Every member of a trade union to which this section applies shall be entitled to receive free of charge a copy of the general statement referred to in subsection (1), and the secretary of the trade union shall deliver a copy of the statement to every member of his union who makes application to him therefor.

(5) The secretary of any trade union to which this section applies who fails to comply with any of the requirements of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

(6) Every person who willfully makes or orders or causes or procures to be made a false entry in or omission from a general statement, copy or list delivered to the Registrar under subsections (1) and (2) shall be guilty of an offence and liable to



imprisonment for a term not exceeding one year and shall, in addition, be liable to corporal punishment not exceeding twelve strokes.

**Inspection of accounts and records.**

**48.** The account books of a trade union and a list of the members thereof shall be open to inspection by an officer or member of the trade union at such times as may be provided for in the rules of the trade union, and by the Registrar, or any person authorized in that behalf in writing by the Registrar, at any reasonable time.

**Obstructing inspection by Registrar. 16 of 1964, s.16.**

**49.** Any person who opposes, obstructs or impedes the Registrar, or any person authorized by him under section 48, in the carrying out of an inspection under that section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or both.

**Power to require detailed accounts. 16 of 1964, s.17.**

**50.** (1) In addition to any other provisions of this Act relating to the rendering of accounts, the Registrar may, at any time, call upon the treasurer, the committee of management or other proper officer or officers of a trade union to render detailed accounts, vouched in such manner as he may require, of the funds of the trade union or any branch thereof in respect of any particular period, and the accounts shall show in particular such information as the Registrar may require. (2) An officer of a trade union who fails to comply with a request made by the Registrar under subsection (1) shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

PART IV-PICKETING, INTIMIDATION AND OTHER MATTERS RELATING TO DISPUTES

**51 and 52.** *(Repealed by 15 of 1965, s.51)*

**Conspiracy in trade disputes. L.N. 462/1963, 9 of 1967, Sch.**

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

(2) An act done in pursuance of an agreement or combination by two 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 other Act.

(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 Government as by law established.

PART X-REGULATIONS

**Regulations. 39 of 1956, Sch., L.N. 962/1963, 16 of 1964, s.18, 15 of 1965, s.52.**

**54.** (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters -

(a) all matters stated or required in this Act to be prescribed;

(b) the conduct and supervision of the election of officers of any trade union or of any branch thereof, and the duration of office of those officers;

(c) the books and registers to be kept for the purposes of this Act and the forms thereof;

(d) the manner in which trade unions and the rules of the trade unions shall be registered and the fees payable on registration;

(e) the manner in which, and the qualifications of persons by whom, the accounts of registered trade unions or of any class of such unions shall be audited;

(f) the conditions subject to which inspection of documents kept by the Registrar shall be allowed and the fees which shall be chargeable in respect of those inspections;

(g) the due disposal and safe custody of the funds and moneys of a trade union;

(h) the creation, administration, protection, control and disposal of the benevolent funds of registered trade unions and all matters connected therewith or incidental thereto;

(i) the appointment, termination of appointment and terms of office of members of a Trade Unions Tribunal, and regulating the proceedings of and any matter in connexion with that Tribunal;

(j) generally for all matters incidental to or connected with the matters or subjects specifically mentioned in this subsection.

PART XI-OFFENCES AND PENALTIES

**Penalty for misuse of money or property of a trade union. 16 of 1964, s.19.**

**55.** (1) Where, on complaint made by the Registrar or by a member of a trade union, it is shown to the satisfaction of a court that any person has in his possession or control any property of the union except in accordance with the rules of the union, or has unlawfully expended or withheld any money of the union, the court shall, if it considers the justice of the case so requires, order that person to

deliver all the property to the trustees of the union and to pay to them the money so unlawfully expended or withheld, and may suspend any officer of the union.

(2) A complaint made under subsection (1) shall not be entertained unless the complainant is the Registrar or the court is satisfied that the complainant is or was on the date of the complaint a member of the trade union in respect of the property of which the complaint is made.

(3) Any person bound by an order made under subsection (1) who fails to comply with the terms thereof and the directions given therein within a time to be specified in the order shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

**Penalty for failure to give notice or produce document. 11 of 1956, s.12.**

**56.** A trade union which fails to give any notice or to send or to produce any document which it is required by this Act or any regulations made thereunder to give, send or produce, and every officer or other person bound by the rules of the trade union to give, send or produce the notice or, if there is no such officer, then every member of the committee of management of the trade union, unless that officer, person or member proves that he was ignorant of, or that he attempted to prevent, the omission to give, send or produce the notice, shall be guilty of an offence and liable to a fine not exceeding one thousand shillings, unless some other punishment is provided for the offence by this Act or regulations made thereunder.

**Limitation of prosecutions. 16 of 1964, s.20**

**57.** No prosecution shall be instituted under sections 9, 16, 19, 20 and 21 except by, or at the instance of, or with the written consent of, the Attorney-General.

**Jurisdiction.**

**58.** All offences and penalties under this Act may be prosecuted and recovered before a subordinate court of the first or second class.

PART XII-MISCELLANEOUS

**Nomination.**

**59.** A member of a trade union may, by writing under his hand, delivered at, or sent to, the principal office of the trade union, nominate a person, not being an officer or servant of the trade union (unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew or niece of the nominator), to whom any moneys payable on the death of such member shall be paid at his decease, and may from time to time revoke or vary such nomination by a writing under his hand similarly delivered or sent; and, on receiving satisfactory proof of the death of a nominator, the trade union shall pay to the nominee any benefits under its constitution due to the deceased member.

**Inapplicability of certain laws. Cap 486, Cap 490.**

**60.** The Companies Act and the Co-operative Societies Act shall not apply to any trade union, and the registration of any trade union under either of those Acts shall be void.

**Saving of right to collect union subscription in public place. 9 of 1967, Sch. Cap 106, Cap 128**

**61.** Nothing in section 3 of the Public Collections Act or in an order issued under section 10 of the Chief's Authority Act shall prevent an officer or member of a trade union duly authorized in that behalf by the trade union collecting in any public place any membership subscription legally due to the trade union by a member thereof.

**Service of legal process.**

**62.** Every summons, notice or other document required to be served on a trade union in any civil or criminal proceeding shall be deemed to be duly served if it is delivered at the registered office of the trade union or if it is served personally on the chairman or the treasurer or the secretary or on any officer of the trade union, provided that the service is otherwise in compliance with the requirements of any relevant law.

**Notification in Gazette.**

**63.** The Registrar shall notify the following facts in the Gazette -

- (a) the fact that a trade union has become a probationary trade union;
- (b) the fact that a trade union has been registered or that registration has been refused;
- (c) the fact that registration of any registered trade union has been cancelled or suspended;
- (d) the fact that a change of name or amalgamation affecting any registered trade union has been registered;
- (e) the fact that any registered trade union has been dissolved.

SCHEDULE

(s.36)

MATTERS FOR WHICH PROVISION MUST BE MADE IN THE RULES OF EVERY TRADE UNION

1. The name of the trade union and the place of meeting for the business of the trade union.
2. The whole of the objects for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, the conditions under which any member thereof may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member thereof.
3. The manner of making, altering, amending and rescinding rules.

4. The appointment or election and removal of an executive, and of trustees, secretaries, treasurers and other officers, of the trade union.
5. The custody and investment of the funds of the trade union, the designation of the officer or officers responsible therefor, and the annual or periodical audit of its accounts.
6. The inspection of the books and names of members of the trade union by any person having an interest in the funds of the trade union.
7. The manner of the dissolution of the trade union and the disposal of the funds thereof available at the time of the dissolution.
8. The taking of all decisions in respect of the election of officers, the amendment of rules, strikes, lock-outs, dissolution and any other matters affecting members of the union generally, by secret ballot.
9. The right of any member to a reasonable opportunity to vote.
10. The amount of subscription and fees payable by members, and the disqualification of a member from voting on any matter concerning the union and from receiving benefits if his subscription is in arrear.
11. The conditions under which a person may become an honorary member.
12. That the secretary and treasurer of the trade union shall be persons sufficiently literate in the English or Swahili language to be able adequately to perform the duties of such office.

#### **SUBSIDIARY LEGISLATION**

Rules of Court under section 18(2)

#### **THE TRADE UNIONS (APPEALS) RULES**

G.N. 858/1952, L.N. 118/1973

- 1.** These Rules may be cited as the Trade Unions (Appeals) Rules.
- 2.** Any appeal to the High Court under subsection (1) of section 18, subsection (5) of section 33 or subsection (8) of section 38 of the Act, as the case may be, against –
  - (a) a refusal of the Registrar to register a trade union as a trade union under the Act; or
  - (b) an order by the Registrar canceling or suspending the registration of any trade union under the Act; or
  - (c) a refusal of the Registrar to register either a change of name of a registered trade union or the trade union formed by the amalgamation of any two or more registered trade unions; or
  - (d) refusal of the Registrar either to register a change of officers or to correct the register with respect to any trade union registered under the Act,shall be filed within one month from the date of the refusal or order, as the case may be:  
provided that High Court may for good and sufficient cause grant any applicant leave to appeal out of time, in such event, shall specify the period with which the appeal shall be filed.
- 3.** (1) Every appeal to the High Court shall be preferred in the form of a memorandum signed by the applicant or his advocate, and shall be filed in triplicate in the Registry of the High Court.

(2) The memorandum shall be supported by one or more affidavits as to facts only, and shall be accompanied by the original of the written notification of the refusal or order appealed from, or by a certified copy thereof.

(3) The memorandum shall set forth concisely and under distinct heads the grounds of objection to the refusal or order appealed from without any argument or narrative; and the grounds shall be numbered consecutively.

**4.** When a memorandum is lodged, the High Court shall forthwith cause notice of the appeal to be served on the Registrar, who shall be the respondent in the appeal.

**5.** (1) A copy of the memorandum of appeal and of the affidavit or affidavits in support shall be served on the respondent together with the notice referred to in rule 4.

(2) The respondent may, within twenty-one days of service, file affidavits in reply:

Provided that the High Court may for good and sufficient cause grant any applicant leave to appeal out of time, and, in such event, shall specify the period with which the appeal shall be filed.

**3.** (1) Every appeal to the High Court shall be preferred in the form of a memorandum signed by the applicant or his advocate, and shall be filed in triplicate in the Registry of the High Court.

(2) The memorandum shall be supported by one or more affidavits as to facts only, and shall be accompanied by the original of the written notification of the refusal, or of the order, appealed from, or by a certified copy thereof.

(3) The memorandum shall set forth concisely and under distinct heads the grounds of objection to the refusal or order appealed from, without any argument or narrative; and grounds shall be numbered consecutively.

**4.** When a memorandum is lodged, the High Court shall forthwith cause notice of the appeal to be served on the Registrar, who shall be the respondent in the appeal.

**5.** (1) A copy of the memorandum of appeal and the affidavit or affidavits in support shall be served on the respondent together with the notice referred to in rule 4.

(2) The respondent may, within twenty-one days of service, file affidavits in reply:

Provided that the High Court may for good and sufficient cause extend the period for filing affidavits in reply, and, in such event, shall specify the period within which the affidavits shall be filed.

**6.** Notice of the day fixed for the hearing of the appeal shall be served on the respondent in the manner provided by the Civil Procedure Rules, for the service on the defendant of a summons to enter appearance; and all the provisions applicable to such summons, and to proceedings with reference to the service thereof, shall apply to the service of that notice.

**7.** The notice to the respondent referred to in rule 6 shall state that if he does not appear before the High Court on the day fixed for the hearing the appeal may be heard *ex parte*.

**8.** (1) The parties to an appeal shall not be entitled to adduce additional evidence, whether oral or documentary, at the hearing of the appeal:

Provided that the High Court may allow any such evidence to be adduced—

(i) if the respondent, in considering the application, has refused or neglected to take into account matters which ought to have been taken into account; or

(ii) if the High Court requires any such evidence to be adduced to enable it to pronounce judgment; or

(iii) for any other substantial cause.

(2) Whenever the High Court allows any additional evidence to be adduced before it, the Court shall record its reasons for so doing.

**9.** The High Court may make such order as to the costs of an appeal as to the Court seems just.

**10.** Order XLI of the Civil Procedure Rules, in so far as it is not inconsistent with the provisions of these Rules, shall apply to every such appeal.

**11.** (1) On lodging an appeal under these Rules, there shall be paid a fee of twenty shillings.

(2) The scale of fees usually payable in the High Court shall apply to all subsequent acts, applications or proceedings.

#### **Regulations under section 54**

G.N. 778/1952, G.N. 754/1953, L.N. 6/1961, L.N. 328/1964, L.N.133/1975.

#### **THE TRADE UNIONS REGULATIONS**

1. These Regulations may be cited as the Trade Unions Regulations.

#### **FORM OF REGISTER, CERTIFICATES, APPLICATIONS AND NOTICES**

2. (1) Every register, certificate, order, application and notice under the Act shall be kept, issued, made or given in the appropriate form set out in the First Schedule.

(2) The number of copies to be submitted of any such application or notice, if more than one, shall be as stated in the form of such application or notice set out in the First Schedule.

(3) Any authority or person having power to issue any certificate under the Act shall, on it being proved to his satisfaction that such certificate has been lost or destroyed and on payment of the prescribed fee, issue a duplicate of the certificate to the person entitled thereto.

#### **REGISTER OF TRADE UNIONS**

3. The particulars to be recorded in the register shall be those specified in form A in the First Schedule.

4. (1) The manner of registering a trade union shall be by entering in the register the name of the trade union, the situation and postal address of its registered office, the titles and names of its officers, and the date of the registration.

(2) The manner of registering a change of name of a trade union shall be by deleting the name under which such trade union has been registered in the register and by substituting therefor the new name of the trade union.

5. (1) The register and any documents in connection therewith shall be open to inspection by the public, during the hours in which the office of the Registrar is open to the public, upon payment of the prescribed fee.

(2) Copies of or extracts from the register or documents in the custody of the Registrar may be obtained by any person giving reasonable notice and upon payment of the prescribed fees.

ANNUAL RETURNS

6. (1) The general statement referred to in subsection (1) of section 47 of the Act shall be furnished to the Registrar on or before the first day of April in each year.

(2) The general statement shall be in the form, and comprise the particulars specified, in the Second Schedule and shall be audited in the manner shown in the form of Auditor's Report contained in that Schedule.

AMALGAMATION OF TRADE UNIONS

7. A registered trade union, when proposing to amalgamate with one or more other trade unions in the manner provided by section 32 of the Act, shall take steps fully to inform, in a suitable manner, all members concerned as to—

(a) the reasons for the proposed amalgamation;

(b) the proposed conditions under which the amalgamation will take place; and

(c) the time and place at which the secret ballot will be held.

8. A notice, giving the particulars specified in regulation 7, shall be posted in the registered office of the trade union and in every branch office thereof at least two weeks before the secret ballot is held, and shall remain so posted until the secret ballot has been concluded.

9. The procedure to be followed in taking the secret ballot shall be as follows—

(a) the ballot shall be conducted jointly by an officer of the trade union and a representative chosen by the members;

(b) the persons responsible for conducting the ballot shall be furnished with—

(i) a list of the members entitled to vote thereat;

(ii) an adequate supply of ballot papers in the form in the Third Schedule and not marked in any way whatsoever so as to identify the person voting; and

(iii) a suitable ballot box fitted with lock and key,

(c) arrangements shall be made to enable each member concerned, at places adjacent to the ballot box, to obtain a ballot paper and to mark it, screened from observation, before depositing it in the box;

(d) the name of each member to whom a ballot paper is handed out shall be marked off on the list of members concerned by the person handing out the ballot papers;

(e) the member shall, after marking the paper, fold it so as to cover the marking and deposit it in the ballot box;

(f) the ballot papers shall be examined and the votes shall be counted by the persons conducting the ballot, and certificates of the result of the ballot, in the form in the Third Schedule shall be signed jointly by them; and a signed copy of the certificate shall—

(i) be posted in the registered office of the trade union and in every branch office thereof for a period of not less than one week after the conclusion of the secret ballot;

(ii) be attached to the notice of amalgamation sent to the Registrar under subsection (1) of section 33 of the Act, which notice shall be in Form K in the First Schedule.



**10.** In the event of disagreement as regards the interpretation or application of the above provisions relating to amalgamation or the procedure for taking a secret ballot, the matter shall be referred to the Registrar, who may, if he thinks fit, conduct the secret ballot himself.

NOTICE OF CHANGE OF RULES

**11.** Whenever a trade union changes its rules, notice of that change in Form M in the First Schedule, signed by the secretary and by seven members of the trade union authorised in that behalf by resolution passed at a general meeting of the trade union, shall be sent to the Registrar within seven days of the change, and shall be accompanied by a copy of the minutes of the meeting at which the change was made, certified as a true copy by the chairman of the meeting.

FEES

**12.** The fees set out in the Fourth Schedule shall be payable to the Registrar in respect of the several matters specified therein.

**TRADE UNION TO KEEP REGISTER OF MEMBERS**

**13.** (1) Every registered trade union shall keep a register of its members, in which shall be entered—

(a) the name, address and occupation of each member;

(b) the date on which each member was admitted to membership;

(c) the payments made by each member in respect of entrance fee, subscriptions or any other matter, and the dates of such payments; and

(d) the date on which any member ceases to be a member.

(2) If any registered trade union fails to keep a register of its members in accordance with the provisions of paragraph

(1), the trade union and every officer or person acting or purporting to act as an officer thereof shall be guilty of an offence and liable to a fine not exceeding five hundred shillings.

FIRST SCHEDULE

FORM A

(reg. 2)

THE TRADE UNIONS ACT  
(Cap. 223)

(reg. 3)

REGISTER

Registry No.....

File Ref.....

Name of Trade Union.....

Situation of Registered Office .....

Postal Address of Registered Office .....

Date of formation	Date of registration	Date of cancellation of registration	Date of suspension of registration	Period of suspension	Date of registration of dissolution
-------------------	----------------------	--------------------------------------	------------------------------------	----------------------	-------------------------------------

Trade Unions Act, Cap 233


*Officers, Executive Committee and Trustees*

Title	Full name	Date of appointment

*Voting Membership as at 31st December of Each Year*

Year	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970
Males										
Females										
Total										

FORM B

THE TRADE UNIONS ACT

(Cap. 233)

APPLICATION FOR REGISTRATION OF TRADE UNION  
(Section 10)

To: The Registrar of Trade Unions,  
Nairobi.

1. We, the several persons whose names are subscribed below, being members of a trade union known as....., make application for the registration of the trade union.
2. The trade union was established on the....., 19.....
3. The name under which it is proposed that the trade union shall be registered is .....
4. (1) The situation of the registered office of the trade union is at .....  
(2) The postal address of the trade union, to which all communications and notices may be addressed, is .....
5. Accompanying this application are sent—
  - (a) a copy, marked A, of the rules of the trade union;
  - (b) a list, marked B, of the names, identity certificate numbers, addresses and occupations of the members making this application; and
  - (c) a list, marked C, of the titles, names, identity certificate numbers, ages, addresses and occupations of the officers of the trade union.
6. We have been duly authorised by the trade union to make this application on its behalf, such authorisation consisting of\* .....

Trade Unions Act, Cap 233

---

Dated the ....., 19 .....

[Signed] 1. ....  
2. ....  
3. ....  
4. ....  
5. ....  
6. ....  
7. ....

NOTES.—(a) This application, to which must be affixed uncanceled stamps to the value of Sh. 2.50, must be signed by at least seven members of the trade union.

(b) The enclosures referred to in paragraph 5 should be typewritten or printed.

\* In paragraph 6 it must be stated whether the authority to make this application was given by a "resolution of a general meeting of the trade union" or, if not, in what other way it was given.

FORM B.1

THE TRADE UNIONS ACT  
(Cap. 233)

APPLICATION FOR REGISTRATION OF A BRANCH OF A TRADE UNION  
(Section 20A)

To: The Registrar of Trade Unions,  
P.O. Box 30031,  
Nairobi.

1. I, the Secretary of the .....  
make application for the registration of the .....  
Branch.

2. The Branch was established on the ....., 19 .....

3. (1) The situation of the registered office of the Branch is at  
.....

(2) The postal address of the Branch to which all direct communications and notices may be  
addressed is.....

4. Accompanying this application is sent a list marked "A" of the titles, names in full, ages,  
addresses and occupations of the officers of the Branch.

5. I have been duly authorized by my executive committee to make this application.

Dated the ....., 19 .....

Signed .....

Secretary of .....Trade Union.

FORM C

THE TRADE UNIONS ACT  
(Cap. 233)

CERTIFICATE OF REGISTRATION  
(Section 13)

I  
t is notified that the .....has been registered under the  
Trade Unions Act.  
Dated the....., 19 .....

.....  
Registrar of Trade Unions

FORM D

THE TRADE UNIONS ACT  
(Cap. 233)

NOTIFICATION OF DEFERMENT OF REGISTRATION  
(Section 11)

It is notified that the registration of .....as a trade  
union under the Trade Unions Act is deferred, and that by reason of that deferment the trade  
union has become a probationary trade union.  
Dated the ..... , 19.....  
.....  
*Registrar of Trade Unions*

NOTE.—After the expiration of three months and before the expiration of twelve months from  
the date of this notice, the Registrar (either on the application of the probationary trade union  
or of his own motion) must, if satisfied that grounds for withholding registration no longer  
exist, register the probationary trade union as a trade union.

If, at the expiration of twelve months from the date of this notice, the Registrar is of the  
opinion that there still exist grounds for withholding registration, the probationary trade union  
will be sent formal notice of refusal to register, together with a statement of the grounds of  
such refusal. The provisions of subsection (2) of section 16 of the Trade Unions Act will then  
have effect.

FORM E

THE TRADE UNIONS ACT  
(Cap. 233)

NOTIFICATION OF REFUSAL OF REGISTRATION  
(Section 16)

It is notified that the registration of ..... as a trade union  
under the Trade Unions Act is refused. The grounds of the refusal are as follows—  
.....  
Dated the ..... , 19.....  
.....  
*Registrar of Trade Unions*

NOTE.—Upon receipt of this notice, reference should be made to section 16 of the Trade  
Unions Act. Subsection (2) of that section sets out the provisions which have effect upon the  
refusal of the Registrar to register a trade union.

FORM F

THE TRADE UNIONS ACT  
(Cap. 233)

NOTICE OF INTENTION TO CANCEL REGISTRATION OF A TRADE UNION  
(Section 17)

To: .....  
.....

Trade Unions Act, Cap 233

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I give you notice, pursuant to section 17 of the Trade Unions Act, that on the expiry of two months from the date hereof I propose to cancel the registration of .....as a trade union under the Act unless, before the expiration of that period, cause is shown to my satisfaction why the registration should not be cancelled. The grounds on which I propose to cancel the registration are—  
.....

Dated the ....., 19 .....

Registrar of Trade Unions.

FORM G

THE TRADE UNIONS ACT  
(Cap. 233.)

ORDER OF CANCELLATION OF REGISTRATION  
(Section 17)

It is notified that the registration of .....as a trade union under the Trade Unions Act be and is suspended. The grounds of the suspension are as follows—  
.....

Dated the ....., 19 .....

Registrar of Trade Unions

NOTE.—Upon service of this order, reference should be made to section 20 of the Trade Unions Act, which sets out the provisions which have effect upon the cancellation of registration of a trade union.

FORM H

THE TRADE UNIONS ACT  
(Cap. 233)

NOTICE OF INTENTION TO SUSPEND REGISTRATION OF A TRADE UNION  
(Section 17)

To: .....

I give you notice, pursuant to section 17 of the Trade Unions Act, that on the expiry of one month from the date hereof I propose to suspend the registration of ..... as a trade union under the Act unless, before the expiration of that period, cause is shown to my satisfaction why the registration should not be suspended. The grounds on which I propose to suspend the registration are—  
.....

Dated the ....., 19 .....

Registrar of Trade Unions

FORM I

THE TRADE UNIONS ACT  
(Cap. 233.)

ORDER OF SUSPENSION OF REGISTRATION  
(Section 17)

It is ordered that the registration of .....as a trade union under the Trade Unions Act be and is cancelled, the grounds of the cancellation are as

follows—

.....  
...  
Dated the ....., 19 .....

Registrar of Trade Unions

NOTE.— Upon service of this order, reference should be made to section 21 of the Trade Unions Act, which sets out the provisions which have effect upon the suspension of registration of a trade union.

FORM J

THE TRADE UNIONS ACT  
(Cap. 233)

NOTICE OF CHANGE OF NAME  
(Section 33)

To: The Registrar of Trade Unions,  
Nairobi.

1. We, the several persons whose names are subscribed below, being the secretary and seven members of the trade union registered under the name of .....give you notice pursuant to section 33 of the Trade Unions Act that it is proposed to change the name of the trade union to.....

2. The proposed change of name has the consent of not less than two-thirds of the total number of voting members of the trade union, such consent having been obtained by secret ballot taken in accordance with the rules of the trade union on the....., 19 .....

Dated the ....., 19 .....

[Signed] .....Secretary

1. ....
2. ....
3. ....
4. ....
5. ....
6. ....
7. ....

Members

NOTES.— (a) A trade union may not change its name without the consent of at least two-thirds of the total number of its voting members, and such consent must be obtained by secret ballot conducted in accordance with the rules of the union.

(b) This notice must be signed by the secretary and by seven members of the trade union.

(c) The change of name will not have effect until registered by the Registrar.

FORM K

(r. 9)

THE TRADE UNIONS ACT  
(Cap. 233)

NOTICE OF AMALGAMATION  
(Section 33)

Trade Unions Act, Cap 233

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To: The Registrar of Trade Unions,  
Nairobi,

1. We, the several persons whose names are subscribed below, being the secretaries and members of the trade unions registered under the names of—

- (1) .....
- (2) .....
- (3) .....

Give you notice pursuant to section 33 of the Trade Unions Act that it proposed to amalgamate together the trade unions as one trade union under the name of .....

2. Each trade union which is a party to this amalgamation has taken a secret ballot among its voting members in the manner prescribed by the Trade Unions Regulations. Signed copies of the certificates of the results of the ballots are attached hereto.

Dated the ....., 19 .....

..... (Trade Union)..... (Trade Union)..... (Trade Union)

(Signed)..... Secretary ..... Secretary .....Secretary

- 1. ....
- 2.....
- 3.....
- 4..... Members.
- 5.....
- 6.....
- 7.....

- 1. ....
- 2.....
- 3.....
- 4..... Members.
- 5.....
- 6.....
- 7.....

- 1. ....
- 2.....
- 3.....
- 4..... Members.
- 5.....
- 6.....
- 7.....

NOTE. — (a) The certificates referred to in paragraph 2 must be in the prescribed form— see Third Schedule to the Trade Unions Regulations. Under section 32 of the Trade Unions Act, the amalgamation cannot be proceeded with unless, in the case of each trade union, the votes of at least 50 percent of the members entitled to vote are recorded at the ballot and, of the votes recorded, those in favour of the proposal exceed by 20 percent or more the votes against the proposal.

(b) The notice must be signed by the secretary and seven members of each trade union which is party to the amalgamation.

(c) The amalgamation will not have effect until the Registrar has registered the trade union formed thereby in the prescribed manner.

Trade Unions Act, Cap 233

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FORM L

THE TRADE UNIONS ACT  
(Cap. 233)

NOTICE OF CHANGE OF SITUATION OF REGISTERED OFFICE OR OF POSTAL ADDRESS  
(Section 35)

To: The Registrar of Trade Unions,  
Nairobi.

The\*..... gives you notice that—

† the situation of the registered office of the trade union has been changed from ..... to  
.....

† the postal address of the trade union has been changed from changed from.....  
to.....

Dated the ....., 19.....

[Signed] ..... Secretary

\* Enter name of trade union.

† Delete whichever is inapplicable.

NOTE.— (a) It is an offence, under section 35 of the Trade Unions Act for any trade union (i) to operate 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 (ii) to fail to give notice of any change of its postal address.

(b) This notice should be signed by the secretary of the trade union.

FORM M

(r. 11)

THE TRADE UNIONS ACT  
(Cap. 233)

NOTICE OF ALTERATION OF RULES  
(Section 36)

To: The Registrar of Trade Unions,  
Nairobi.

1. We, the several persons whose names are subscribed below, being the secretary and seven members of the trade union registered under the name of .....give you notice of alteration of the rules of the aforesaid trade union.

2. With this application are sent—

(a) a copy of the registered rules of the union, marked to show where and in what way they are altered;

(b) a copy, marked A, of the alteration[s], signed by the person giving this notice;

(c) a copy of the minutes of the meeting at which the alteration[s] was [were] made, certified as true by the chairman of that meeting.

3. We have been duly authorized by the trade union to give this notice on its behalf, such authorization consisting of a resolution passed at a general meeting of the trade union on the....., 19.....



Trade Unions Act, Cap 233

Dated the....., 19 .....

[Signed] .....Secretary

- 1. ....
- 2. ....
- 3. ....
- 4. ....
- 5. ....
- 6. ....
- 7. ....

Members

CERTIFICATE OF REGISTRY (For Official Use)

It is certified that the foregoing alteration[s] of the rules of the..... has [have] been registered pursuant to section 36 of the Trade Unions.

Dated the....., 19.....

[Signed] .....  
Registrar of Trade Unions

NOTE.—(a) Two copies of this notice (with enclosures) must be sent to the Registrar within seven days of any alteration of rules or of the making of any new rule.

(b) This notice must be accompanied by the prescribed registration fee.

(c) Alterations in the rules of a trade union have effect from the date of registration thereof by the Registrar unless some later date is specified in the rules.

FORM N

THE TRADE UNIONS ACT  
(Cap. 233)

NOTICE OF CHANGE OF NAMES OR TITLES OF OFFICERS  
(Section 38)

To: The Registrar of Trade Unions,  
Nairobi.

The\* .....gives you notice that the names [titles] of the officers of the trade union specified in the first column hereunder have been altered to those specified in the second column, with effect from the date specified in the third column.

Old name and title	New name and title	Effective date of alteration

Dated the....., 19 .....

[Signed] .....

Secretary

Trade Unions Act, Cap 233

---

\* Enter name of trade union.

NOTE. — (a) Notice of all changes of officers or of the title of any officer must be sent to the Registrar within seven days after such change.

(b) This notice must be signed by the secretary of the trade union and must be accompanied by the prescribed registration fee.

FORM O

THE TRADE UNIONS ACT  
(Cap. 233)

NOTICE OF DISSOLUTION  
(Section 39)

To: The Registrar of Trade Unions,  
Nairobi.

Notice is given that the \* .....was dissolved in  
pursuance of the rules thereof on the....., 19.....

Dated the ....., 19.....

[Signed] .....Secretary

1. ....
2. ....
3. ....
4. ....
5. ....
6. ....
7. ....

Members

Name and address to which registered copy is to be returned .....

\* Enter name of trade union.

CERTIFICATE OF REGISTRY (For Official Use)

It is certified that the dissolution of the.....has this day been  
registered pursuant to section 39 of the.

Dated the ....., 19 .....

[Signed] .....

Registrar of Trade Unions

NOTE. — (a) Two copies of this notice, signed by the secretary and by seven members of the  
trade union, must be sent to the Registrar within fourteen days of the dissolution.

(b) The dissolution of a trade union has effect from the date of its registration by the  
Registrar.

SECOND SCHEDULE

(r. 6)

THE TRADE UNIONS ACT  
(Cap. 233)

GENERAL STATEMENT OF RECEIPTS AND EXPENDITURE  
(Section 47)

Trade Unions Act, Cap 233

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Annual Return of the\* ..... for the year ended 31st December, 19

Particulars of the Trade Union

1. Situation of registered office .....
  2. Postal address .....
  3. Has the trade union any branches? If so, state situation of, and number of members in, each branch .....
  4. In what trade or calling are the members of the union chiefly employed?.....
  5. Total number of male voting members at 31st December, 19.....
- Total number of female voting members at 31st December, 19 .....
- Total .....

\* Enter name of trade union.

PARTICULARS OF THE OFFICERS AND EXECUTIVE COMMITTEE OF  
THE TRADE UNION AS AT 31ST DECEMBER, 19.....

Title of officer	Name in full	Address	Date of appointment

It is certified as follows—

- (a) none of the above-mentioned officers has been convicted of any crime involving fraud or dishonesty;
- (b) none of the above-mentioned officers is an officer of any other trade union;
- (c) all the above-mentioned officers (except the secretary and..... ) are actually engaged in the industry or occupation of, .....with which this trade union is directly concerned, the said .....having become office bearers on the....., 19 .....with the permission of the Registrar pursuant to section 29 (1) (b) of the Act.

PARTICULARS OF TRUSTEES

Name in full	Address	Date of appointment

INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR ENDED 31ST DECEMBER, 19

INCOME			EXPENDITURE		
(1) Members' contributions (including those of branch members):	<i>Sh</i>	<i>cts.</i>	(1) Benefits paid to members	<i>Sh.</i>	<i>Cts.</i>
(a) subscriptions.....			(2) Working expenses:		
(b) entrance fees.....			(a) head office.....		
(c) other contributions from members			(b) branches.....		

Trade Unions Act, Cap 233

(to be specified): ..... ..... ..... (2) Bank interest: (3) Miscellaneous income (to be shown in detail): ..... ..... ..... TOTAL..... Balance brought forward from previous year..... TOTAL.....			(3) Other expenditure (to be specified): ..... ..... (4) Balance of general funds at the end of the year..... TOTAL.....		
BALANCE SHEET AS AT 31ST DECEMBER, 19.....					
LIABILITIES			ASSETS		
	Sh.	cts.		Sh.	cts.
(1) Total amount of general funds as shown above..... (2) Amount of any separate funds maintained as follows [details of each separate fund to be given]:— ..... ..... ..... ..... (3) Other liabilities [to be specified]:— ..... ..... ..... TOTAL.....			Cash in hands of treasurer  Cash in hands of secretary.....  Bank..... Other assets [to be specified]:— .....  TOTAL.....		

AUDITOR'S REPORT

The undersigned, having had access to all the books and accounts of the trade union (including its branches), and having examined the Annual Return and verified the same with the accounts and vouchers relating thereto, now sign the same as found to be correct, duly vouched, and in accordance with law.

.....  
 [Signature of First Auditor]

.....  
 [Signature of Second Auditor]

Address ..... Address.....  
 Calling or Profession ..... Calling or Profession .....  
 Date of completion of audit....., 19 .....

Dated the....., 19 .....  
 [Signed] .....  
 Secretary.

Trade Unions Act, Cap 233

To: The Registrar of Trade Unions,  
Nairobi.

NOTE.— (a) This return is required to be furnished to the Registrar by the secretary of every probationary and of every registered trade union on or before the first day of April of the year immediately following that in respect of which the return is rendered.

(b) This return should be accompanied by—

(i) a copy, marked A, of the rules of the trade union in force at the end of the year;

(ii) a copy, marked B, of all alterations and amendments of rules, and of all new rules, made during the year; and

(iii) a list, marked C, of all changes of officers made during that year.

THIRD SCHEDULE

(r. 9)

BALLOT PAPER

Record your vote by a X in column 2.  
Do not sign your name.

Column 1	Column 2
For Amalgamation .....	
Against Amalgamation.....	

CERTIFICATE OF RESULT OF BALLOT

Name of trade union .....

Situation and postal address of registered office .....

We, the undersigned, representing respectively the officers and members concerned of the above-named trade union, certify that on the....., 19....., a ballot was duly taken in compliance with the requirements of the Trade Union Regulations on the question of the amalgamation of the trade union with the registered trade union[s] named hereunder—

.....  
and that the result was—

Number of papers in ballot box .....

Number voting in favour of the amalgamation .....

Number voting against the amalgamation .....

The total number of members entitled to vote was .....

Dated the....., 19 .....

[  
Signed] 1. ....  
2. ....

NOTE.—A signed copy of this certificate must be posted in the registered office of the trade union and in every branch office thereof. A further signed copy must accompany the notice of amalgamation which is required to be sent to the Registrar under subsection (1) of section 33 of the Trade Unions Act.

L.N. 246/1988,  
L.N. 88/1997,  
L.N. 88/2003.

## FOURTH SCHEDULE

(r. 12)

## FEES

The following fees shall be paid to the Registrar—

	KShs.
(a) on application for registration of a trade union .....	15,000
(b) on application for registration of branch of a trade union .....	3,000
(c) on registration of new rules or alteration of rules	750
(d) on registration of change of officers .....	3,000
(e) on registration of change of name of a trade union .....	1,500
(f) on registration of amalgamation of trade union .....	1,000
(g) for a copy of a certificate of registration .....	200
(h) for a certified copy of/or a certificate extract .....	500
(i) for a certified copy of or extract from documents searchable under the custody of the Registrar—.....	
(i) for the first page thereof .....	500
(ii) for every other page .....	100
(j) for carrying out such on records.....	200
(k) for filling annual returns .....	2,200
(l) penalty of Kshs. 100 per month after 1st April.....	100
(m) on filling notice of change of situation of the office or postal.....	600

[L.N. 128/1961, L.N. 299/1964]

### THE TRADE UNIONS (ACCOUNTS) REGULATIONS

#### **Citation.**

1. These Regulations may be cited as the Trade Unions (Accounts) Regulations.

#### **Interpretation.**

2. In these Regulations, "treasurer" includes any person for the time being acting as a treasurer.

#### **Receipts to be issued by collectors.**

3. (1) Every person who collects or receives subscriptions, entrance fees, donations or other contributions for a trade union, hereinafter referred to as a collector, shall issue to the

person paying him a receipt in Form P in the Schedule taken from a book of printed receipt forms, the forms being each in duplicate and numbered serially:

Provided that an employer shall not be required to issue a receipt to his employee for any money so collected on behalf of a trade union.

(2) The collector shall, when issuing a receipt, ensure that the particulars entered on the receipt form are legibly duplicated by carbon copy on the printed duplicate thereof, and shall preserve in the book the printed duplicate of every receipt issued.

(3) The collector (other than a treasurer) shall hand over or remit to the treasurer of his trade union, or of his branch of the trade union, at intervals of not more than twenty-one days, all monies which he has collected on behalf of the trade union, together with all receipt books in his possession relating to such monies.

(4) Every collector shall issue receipts from receipt books issued to him in proper sequence in accordance with their serial numbering.

(5) Any person collecting for a trade union who contravenes any of the provisions of paragraph (1), (2), (3) and (4) shall be guilty of an offence.

**Receipts to be issued to the collectors by the treasurer.**

4. (1) The treasurer of every trade union or branch of a trade union shall, when receiving money from a collector, issue to him a receipts in Form Q in the Schedule taken from a book of printed receipt forms, the forms being each in duplicate and numbered serially.

(2) The treasurer of every trade union or branch of a trade union shall, when issuing a receipt, ensure that the particulars entered on the receipt form are legibly duplicated by carbon copy on the printed duplicate thereof, and shall preserve in the book the printed duplicate of every receipt issued.

(3) No treasurer of a trade union or branch of a trade union shall issue a receipt from a fresh receipt book unless all receipts from receipt books already in use are completed.

(4) Every treasurer of a trade union or branch of a trade union shall issue receipts and receipt books in proper sequence in accordance with their serial numbering.

(5) Every treasurer of a trade union or branch of a trade union shall ensure that a collector accounts to such treasurer for all receipt books issued to such collector when such collector accounts for the cash collected by him.

(6) When the necessary information has been obtained from the collector's receipt book or books, as the case may be, the treasurer may return to the collector for further use such receipt book or books as have not been completed.

(7) Any treasurer of a trade union or branch of a trade union who contravenes any of the provisions of paragraph (1), (2), (3), (4) and (5) shall be guilty of an offence.

**Record of receipt books to be kept.**

5. (1) The treasurer of every trade union shall be responsible for the issue of all receipt books, whether to treasurers of branches or to collectors, and the treasurer of a branch of a trade union shall be responsible for the issue to collectors of all receipt books which he receives from the treasurer of the trade union.

(2) The treasurer of every trade union or branch of a trade union shall keep a record of all receipt books which he receives and issues, and such record shall show the serial numbers of

all receipt books received by him, the dates on which he received the receipt books, the name of the person to whom each receipt book is issued, the date when he issued such receipt book and the date when the duplicates of the receipts were returned to him, and when he has issued a receipt book to any person (other than a treasurer of a branch) he shall not issue any further book to such person until the duplicate of the first mentioned book has been returned to him.

(3) No treasurer of a branch of a trade union shall issue to any person a receipt book other than a receipt book received by him from the treasurer of the union, and no treasurer of a branch of a trade union nor a collector shall issue to any person a receipt other than a receipt from a receipt book so issued by the treasurer of the union.

(4) Any treasurer of a trade union or branch of a trade union who contravenes any of the provisions of paragraph (2) and (3) shall be guilty of an offence.

**Payment vouchers to be made out.**

6. (1) No person shall make a payment out of trade union funds unless he has first made out a payment voucher in Form R in the Schedule, and—

(a) obtained the signature thereto by the person empowered to authorize such a payment:

Provided that no person shall be empowered to authorise payment to himself;

(b) signed it;

(c) obtained the signature of the payee (but not when payment is made by a crossed-cheque);

(d) where the payment is for travelling expenses, recorded therein—

(i) the name of the person travelling;

(ii) the places from which and to which the person has travelled;

(iii) the mode of transport; and

(iv) the reason for the journey and the date thereof; and

(e) recorded therein the name and address of the recipient of the payment and sufficient information to enable the nature of the payment to be ascertained.

(2) No person shall make a payment out of union funds for an object not authorised by the Act or the rules of the trade union concerned, and no person shall authorise such a payment.

(3) Any person who contravenes the provisions of paragraph (1) and (2) shall be guilty of an offence.

**Wages book to be kept.**

7. (1) Where a trade union or branch of a trade union employs any person, or engages any person to collect money for it on commission, the treasurer of the trade union or branch of a trade union, as the case may be, shall maintain a wages book in form S in the Schedule, using a separate page for each person so employed or so engaged.

(2) Any treasurer of a trade union or branch of a trade union who contravenes the provisions of paragraph (1) shall be guilty of an offence.



**Cash book and branch analysis cash book.**

8. (1) The treasurer of every trade union shall keep a cash book in Form T in the Schedule, and shall record therein all money received and all money paid by the trade union, including receipts from and payments to branches, in the appropriate columns according to the nature of the receipts and payments and according to whether the money is received or paid in cash or is received into or paid out of a bank account or other deposit or savings account of the trade union.

(2) The treasurer shall balance the cash book at the end of every month and shall certify in the cash book that the balances agree with the actual cash in hand and cash at the bank, and the treasurer shall sign the certificate.

(3) Every treasurer shall also keep in respect of every branch of the trade union a branch analysis cash book as indicated in Form U in the Schedule, and shall record therein an analysis of all money received and all money paid by every branch, according to the copies of the cash book sheets received from branch treasurers under regulation 9, and the receipts and payments shall be entered in the appropriate columns as prescribed by paragraph (1).

(4) Any treasurer of a trade union who contravenes any of the provisions of paragraph (1) and (3) shall be guilty of an offence.

**Branch cash book.**

9. (1) The treasurer of every branch of a trade union shall keep a cash book in Form V in the Schedule with the pages thereof numbered serially, and shall record therein all money received and all money paid by the branch, including receipts from and payments to the trade union headquarters, in the appropriate columns as prescribed by paragraph (1) of regulation 8.

(2) The treasurer shall balance the cash book at the end of every month and shall certify in the cash book that the balances agree with the actual cash in hand and cash at the bank, and the treasurer shall sign such certificate and shall forward to the treasurer of the trade union within seven days after the end of the month a copy of every page of the cash book which relates to that month and particulars of the balances.

(3) Any treasurer of a branch of a trade union who contravenes any of the provisions of paragraph (1) and (2) shall be guilty of an offence.

**Special funds.**

10. (1) The treasurer of every trade union or branch of a trade union shall maintain in the trade union's accounts separate records of any contributions or donations which it collects or receives for a specific purpose, and, subject to any resolutions of the members of the trade union authorising the use of such funds for any other purpose, the treasurer shall not disburse any such funds other than for the specific purpose for which they were collected or donated.

(2) Any treasurer of a trade union or of a branch of a trade union who contravenes the provisions of paragraph (1) shall be guilty of an offence.

**Preservation of documents.**

11. (1) The treasurer of every trade union or branch of a trade union shall preserve all the books of account and documents which it keeps or makes under these Regulations, and all books of duplicate receipts and other supporting documents, for a period of at least three years after the end of the trade union's financial year to which they relate, and shall take all such precautions as are reasonably necessary for their safe custody.

(2) Any treasurer of a trade union or of a branch of a trade union who contravenes the provisions of paragraph (1) shall be guilty of an offence.

**Bank account to be maintained.**

12. (1) The treasurer of every trade union or branch of a trade union shall cause a bank account to be opened and maintained in the name of the trade union or branch thereof, and whenever he receives any money belonging to the trade union or branch thereof he shall within seven days of such receipt pay it into the bank account:

Provided that where the rules of a trade union permit the treasurer of a branch of that union to retain in cash a sum not exceeding one hundred shillings, the treasurer of such branch shall pay into such bank account any cash in his possession as such treasurer which exceeds one hundred shillings.

(2) (Deleted by L.N. 299/1964.)

(3) Any treasurer of a trade union or branch of a trade union who contravenes the provisions of paragraph (1) shall be guilty of an offence.

**Power to exempt.**

13. (1) The Minister, on a report from the Registrar, may exempt any trade union from all or any of the provisions of these Regulations if he is of the opinion that the standard of accounting of the trade union is sufficiently high apart from the provisions of these Regulations.

(2) The Minister may at any time cancel an exemption granted under paragraph (1) if he is of the opinion that the standard of accounting of the trade union so exempted has not been sufficiently maintained.

**Penalty.**

14. Any person who is guilty of an offence under these Regulations shall be liable to a fine not exceeding two thousand shillings or to imprisonment of a term not exceeding two months or to both.

SCHEDULE

FORM P

(r. 3 (1))

RECEIPT

Binding  
Collectors'  
Receipt Book

NAME OF TRADE UNION

Received from:.....

Shillings (in words).....

Monthly subscriptions.....

Entrance fees .....

Donations.....

Other

Total

\*To be inserted by printer.

\*Serial No.:

Date:

Membership No.:

Cents

Sh.            cts.

Signature.....

FORM Q

(r. 4 (1))

Trade Unions Act, Cap 233

RECEIPT

Binding      NAME OF TRADE UNION

Treasurer's      Received from:.....

Receipt      \*Serial No.:...  
Book      Date.....

Shillings (in words):.....      Cents:.....  
Sh.      cts.

Collector's receipt serial      Monthly subscriptions.....  
numbers to which amount      Entrance fees.....  
refers:      Donations.....  
Nos..... to Nos.....      Other.....

Total  
\*To be inserted by printer.  
Signature.....

FORM R (r. 6 (1))

PAYMENT VOUCHER

Margin      Name of Trade Union

PAYMENT VOUCHER      Serial No.:  
Particulars      Date:

Amount  
Sh.      cts.

Amount in words:  
Authorized by.....      Paid by.....      Recipient.....  
President/Chairman/Secretary      Treasurer      Where applicable

FORM S (r. 7(1))

WAGES BOOK

Employee's name:  
Monthly Wage or Rate of Commission  
Date engaged:  
Date discharged:

Particulars of amount due*	Amount due	Amount paid	Payment voucher No.	Payee's receipt (signature or mark) and date
	Sh.      cts.	Sh.      cts.		

\*Form "Q" receipt numbers must be specified where applicable.



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L.N. 327/1964.

**THE TRADE UNIONS TRIBUNAL (PROCEDURE) REGULATIONS**

1. These Regulations may be cited as the Trade Unions Tribunal (Procedure) Regulations.

2. In these Regulations, except where the context otherwise requires—

“chairman” means the chairman of a Tribunal;

“Secretary” means the Secretary of Tribunals appointed under regulation 5 (1);

“Tribunal” means a Trade Unions Tribunal appointed by the Minister under section 20A or section 38 of the Act.

3. (1) Where the Minister appoints a Tribunal, he shall appoint one of its members to be chairman.

(2) If the chairman of a Tribunal is prevented by sickness or any other reason from attending any hearing of the

Tribunal, the members shall appoint one of their number to act as chairman of the Tribunal in his absence.

4. A member of a Tribunal shall hold office for such period as may be specified in his appointment, and he shall be eligible for reappointment.

5. (1) The Minister shall appoint an officer of his Ministry to be Secretary of Tribunals, who shall act as Secretary to every Tribunal.

(2) The Secretary shall, in relation to any matters referred to a Tribunal, comply with the general and special directions of the chairman of the Tribunal.

(3) The address of the Secretary for the purpose of the presentation or service of documents under these Regulations is Attorney-General’s Chambers, Nairobi.

6. Interested parties may, with the permission of the Tribunal concerned, be represented by counsel in proceedings before the Tribunal.

7. Where the Registrar is not satisfied as to the validity or propriety of any application for registration under section 20A of the Act or of any application to register a change of officers or to correct the register under section 38 (4) of the Act, or has reason to believe that a branch of a trade union has been dissolved or has ceased to function in terms of section 20A (5) of the Act, he may request the Minister to appoint a Tribunal and shall thereupon refer the matter to that Tribunal, setting forth briefly the reasons for his dissatisfaction or belief, as the case may be.

8. On receipt of a reference from the Registrar, the chairman of the Tribunal concerned shall appoint a time, date and place for a sitting of such Tribunal for the purpose of hearing the matter referred to it, and the Secretary shall cause a copy of the notice of hearing to be served on—

(a) each member of the Tribunal;

(b) the Registrar;

(c) any party who, in the opinion of the Secretary is an interested party; and

(d) the registered president and general secretary of the trade union concerned at the headquarters of the union.

9. (1) At the hearing of the matter referred, the following procedure shall be observed—

(a) the Registrar shall detail the matter in dispute and the reasons for his dissatisfaction or belief as the case may be;

(b) any party who, in the opinion of the Tribunal, is an interested party may appear and make submissions and produce such evidence as may be relevant;

(c) at the conclusion of the evidence of any such interested party, the registered president and general secretary of the trade union concerned may make submissions concerning the matter in dispute and may, with the permission of the chairman, call any relevant evidence;

(d) any such interested party shall be entitled to reply but may not rely on any evidence other than that adduced at the hearing;

(e) the chairman or any member of the Tribunal shall be entitled at any stage of the hearing to ask any questions of any party to the proceedings or any witness examined at the hearing, as he considers necessary to the determination of the matter referred;

(f) the parties shall notify the Secretary before the hearing of any witness they propose calling in support of their submissions, and shall at the same time notify any other party on whom notice has been served, but the parties shall be at liberty to call further witnesses with the permission of the Tribunal;

(g) a witness called and examined by any party shall give his evidence on oath and may be cross-examined by any other party to the proceedings, and if so cross-examined may be re-examined;

(h) the Tribunal may, if it thinks necessary, call and examine any witness, and thereafter any such witness may be cross-examined by any party to the proceedings;

(i) the Tribunal may adjourn the hearing of the matter for the production of further evidence or for other good cause, as it considers necessary, on such terms as the Tribunal may determine;

(j) before the Tribunal reaches its decision, the parties to the proceedings shall withdraw from the hearing, whereupon the Tribunal shall, without any unnecessary delay, consider and determine the matter referred;

(k) the decision of the Tribunal shall be determined by a majority of the members present and voting at the hearing, and in the case of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote;

(l) minutes of the hearing shall be kept and the decision of the Tribunal recorded therein.

(2) In this regulation, "Registrar" includes any person authorised by the Registrar to appear on his behalf.

10. In matters of procedure not governed by these Regulations or the Act, the Tribunal may regulate its own procedure.

11. Save where the Tribunal in any particular case otherwise directs or where any party to the proceedings objects, copies of documents shall be admissible in evidence:

Provided that the Tribunal may at any time direct that the original shall be produced notwithstanding that a copy has already been admitted in evidence.

12. All parties to the proceedings shall bear their own costs:

Provided that, where it is the opinion of the Tribunal that in any case the original application to the Registrar was frivolous or vexatious, the Tribunal may require the party making such application appearing before it to bear such costs of the Tribunal and any other party, which shall be such sum as the Tribunal assesses having regard to the nature of the proceedings and the work involved.

13. The chairman shall cause the recommendations of the Tribunal to be communicated without delay to the Registrar in accordance with the.