

# *The Trade Unions Act, 1902.*

(1° & 2° Edwardi VII., No. 19.)

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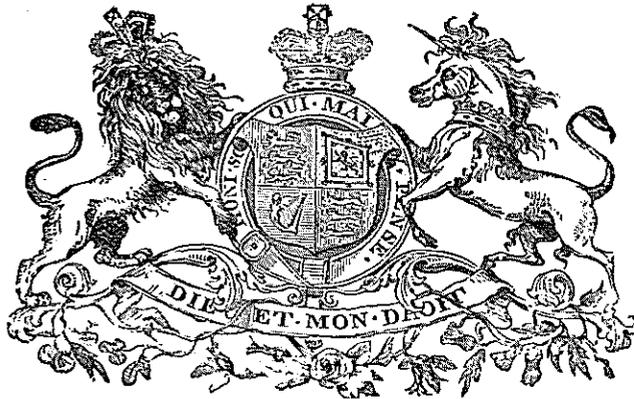
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Western Australia.

ANNO PRIMO ET SECUNDO

EDWARDI VII. REGIS.

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No. XIX.

AN ACT to provide for the Regulation of  
Trade Unions.

[Assented to, 19th February, 1902.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PRELIMINARY.

1. THIS Act may be cited as the Trade Unions Act, 1902. Short title.
2. THE following terms shall, if not inconsistent with the context, have the meanings respectively assigned to them:—

“Amendment of a rule” or “Amendment of rules” shall include a new rule and a resolution rescinding a rule.

Interpretation.

Imp. Act, 34 and 35  
Vict., c. 31, s. 23,  
and 39 and 40 Vict.,  
c. 22, s. 16.

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- “ Branch ” shall mean any number of the members of a trade union under the control of a central body situated within Western Australia, having a separate fund administered by themselves, or by a committee or officers appointed by themselves, and bound to contribute to a fund under the control of such central body.
- “ Office ” shall mean the registered office for the time being of a trade union.
- “ Officer ” shall include any trustee, treasurer, secretary, or member of the committee of a trade union, or any person acting in the capacity of such trustee, treasurer, secretary, or member of the committee.
- “ Property ” shall mean all real and personal estate (including books and papers).
- “ Registered Trade Union ” shall mean every trade union registered under this Act.
- “ Rules ” shall mean the registered rules for the time being, and shall include any registered amendment of rules.
- “ The Minister ” shall mean the responsible Minister of the Crown administering the Friendly Societies Act, 1894.
- “ The Registrar ” shall mean the Registrar of Friendly Societies appointed under the Friendly Societies Act, 1894.
- “ Trade Union ” shall mean any combination, whether temporary or permanent, for regulating the relations between workmen and employers, or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, whether such combination would or would not, if this Act had not been passed, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade.

Provided that this Act shall not affect:—

- (1.) Any agreement between partners as to their own business:
- (2.) Any agreement between an employer and those employed by him as to such employment:
- (3.) Any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade, or handicraft.

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*Criminal Provisions.*

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

Trade union not criminal.  
Imp. Act, 34 and 35  
Vict., c. 31, s. 2.

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

Trade union not unlawful.  
Imp. Act, 34 and 35  
Vict., c. 31, s. 3.

5. (1.) NOTHING herein shall enable any Court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements, namely:—

Trade union contracts, when not enforceable.  
Imp. Act, 34 and 35  
Vict., c. 31, s. 4.

(a.) Any agreement between members of a trade union as such concerning the conditions on which any members for the time being of such trade union shall or shall not sell their goods, transact business, employ, or be employed:

(b.) Any agreement for the payment by any person of any subscription or penalty to a trade union:

(c.) Any agreement for the application of the funds of a trade union—

(1.) To provide benefits to members; or

(2.) To furnish contributions to any employer or workman, not a member of such trade union, in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union; or

(3.) 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 above-mentioned agreements.

(2.) Nothing in this section shall be deemed to constitute any of the above-mentioned agreements unlawful.

6. EXCEPT as hereinafter provided, the following Acts, that is to say,—

(1.) The Life Assurance Companies Act, 1889,

(2.) The Companies Act, 1893,

(3.) The Friendly Societies Act, 1894,

Certain Acts not to apply to trade unions.  
Imp. Act, 34 and 35  
Vict., c. 31, s. 5, and  
39 and 40 Vict., c. 22,  
s. 7.

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(4.) Any Act now or hereafter passed regulating Industrial and Provident Societies,

(5.) The Associations Incorporation Act, 1895,

and any Acts amending the same respectively, shall not apply to any trade union, and the registration of any trade union under any of the said Acts shall be void.

7. A TRADE union which insures or pays money on the death of a child under ten years of age shall be deemed to be within the provisions of section thirty-four of the Friendly Societies Act, 1894.

Trade unions to be subject to Section 34 of the Friendly Societies Act, 1894.

Imp. Act, 39 and 40 Vict., c. 22, s. 2.

*Registered Trade Unions.*

8. (1.) ANY seven or more members of a trade union may, by subscribing their names to the rules of the union, and complying with this Act with respect to registry, apply to the Registrar in the prescribed manner to register such union.

Registry of trade unions.

Imp. Act, 34 and 35 Vict., c. 31, s. 6.

(2.) Any Council or other body, however designated, representing not less than two registered Trade Unions may be registered as a Trade Union under this Act.

(3.) If any one of the purposes of a trade union be unlawful, the registration shall be void.

9. A REGISTERED trade union may purchase or take upon lease any land, and may sell, exchange, mortgage, or let the same. No purchaser, assignee, mortgagee, or tenant shall be bound to inquire whether the trustees have authority for any such dealing, and the receipt of the trustees shall be a discharge for the money arising therefrom. For the purposes of this section, every branch of a trade union shall be considered a distinct union.

Land for trade unions may be purchased or leased.

Imp. Act, 34 and 35 Vict., c. 31, s. 7.

10. (1.) ALL property whatsoever belonging to a registered trade union shall be vested in and be under the control of the trustees, for the use and benefit of such trade union. The property of any branch of a trade union shall be vested in and be under the control of the trustees of such branch, or if the rules of the trade union so provide it shall be vested in and under the control of the trustees of the trade union.

Property of trade unions vested in trustees.

Imp. Act, 34 and 35 Vict., c. 31, s. 8.

(2.) Upon the death, resignation, or removal of any trustee, the property shall vest in the continuing or succeeding trustees subject to the same trusts, without any conveyance or assignment.

(3.) In all actions, informations, complaints, or other legal proceedings whatsoever, touching or concerning any such property, it shall be stated to be the property of the trustees for the time being of such trade union, without any further description.

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11. (1.) WHEN any person in whose name any property belonging to a registered union or branch is standing, either jointly or solely,—

Provision in case of absence, etc., of trustee.

Imp. Act, 39 and 40 Vict., c. 22, s. 24.

- (a.) Is absent from the State; or
- (b.) Becomes bankrupt, or executes any deed for liquidation of his affairs by assignment or arrangement, or for composition with his creditors; or
- (c.) Becomes a lunatic; or
- (d.) Is dead, or has been removed from his office; or
- (e.) If it be unknown whether such person is living or dead,

the Registrar, on application in the prescribed form, may direct the transfer of such property into the names of any other persons as trustees for the union or branch.

(2.) Such transfer shall be made by the surviving or continuing trustee or trustees, or the Registrar may direct that, where such property—

- (a.) Is standing in the books of the Colonial Treasurer, or is in his control, such transfer be made by the Colonial Treasurer;
- (b.) Is standing in the books or in the control of any bank or banking corporation or other corporation or body, such transfer be made by some officer of such bank or banking corporation or other corporation or body to be named in the order;
- (c.) Is standing in the books or is in the hands or control of any other person or persons, such transfer be made by such person or persons.

(3.) The Colonial Treasurer, and every such bank and banking corporation, and all corporations, companies, and persons and their officers and servants respectively, are hereby indemnified for anything done by him or them or any of his or their officers or servants in pursuance of the provisions of this section, against any claim or demand of any person injuriously affected thereby.

12. (1.) THE trustees of any registered trade union, or any other officer of such trade union who may be authorised so to do by the rules thereof, are hereby empowered to bring or defend, or cause to be brought or defended, any action, suit, prosecution, or complaint, in any Court, touching or concerning the property, right, or claim to property of the trade union.

Actions by or against trustees.

Imp. Act, 34 and 35 Vict., c. 31, s. 9.

(2.) In all cases touching or concerning the property, right, or claim to property of a trade union, the trustees shall and may appear and sue and be sued and proceeded against in any Court, in

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their proper names, without other description than the title of their office.

(3.) No such action, suit, prosecution, or complaint shall be discontinued, or shall abate by the death, resignation, or removal from office of any trustee or other person, but shall be proceeded in by their successor or successors as if such death, resignation, or removal had not taken place; and such successor or successors shall pay or receive the like costs as if the action, suit, prosecution, or complaint had been commenced in their names for the benefit of or to be reimbursed from the funds of such trade union.

(4.) Any suit, complaint, summons, or other proceeding for service on such trustees or other officer may be served by leaving the same at the registered office of the union.

Limitation of  
responsibility of  
trustees.

Imp. Act, 34 and 35  
Vict., c. 31, s. 10.

**13.** A TRUSTEE of a registered trade union shall not be liable to make good any deficiency which may arise or happen in the funds of such trade union, but shall be liable only for the moneys which shall be actually received by him on account of such trade union.

Treasurer, etc., to  
account.

Imp. Act, 34 and 35  
Vict., c. 31, s. 11.

**14.** (1.) EVERY treasurer of a registered trade union at such times as provided by the rules of such trade union, or upon being required so to do, shall render to the trustees of the trade union, or to the members of such trade union, at a meeting of the members thereof, a just and true account of all moneys received and paid by him since he last rendered the like account, and of the balance then remaining in his hands, and of all the property of such trade union; which account the said trustees shall cause to be audited by some fit and proper person or persons by them to be appointed, or to be appointed by the members of such union.

(2.) Such treasurer, if thereunto required, shall forthwith hand over to the said trustees the balance which on such account appears to be due from him, and shall also, if required, hand over to such trustees all property of the union in his hands or custody.

If he fail to do so, the trustees may sue him in any competent Court for the balance appearing to have been due from him upon such account, and for all the moneys since received by him on account of the said trade union, and for the property in his hands or custody, leaving him to set off in such action the sums, if any, which he may have since paid on account of the said trade union; and in such action the said trustees shall be entitled to recover their full costs of suit, to be taxed as between solicitor and client.

Punishment for  
withholding money.

Imp. Act, 34 and 35  
Vict., c. 31, c. 12.

**15.** (1.) IF any person—

(a.) By false representation, obtain possession of any property of such trade union; or

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- (b.) Having any such property in his possession, wilfully withhold or fraudulently misapply the same; or
- (c.) Wilfully apply any part of such property to purposes other than those expressed or directed in the rules of such trade union, or any part thereof he shall, upon a complaint made by any person on behalf of such trade union, or by the Registrar, be liable, on summary conviction, to a penalty not exceeding Fifty pounds and costs, and to be ordered to deliver up all such property, or to repay all moneys applied improperly, or damage occasioned, and in default of such delivery or repayment, or of the payment of such penalty and costs aforesaid, to be imprisoned, with or without hard labour, for any time not exceeding six months.
- (2.) Nothing herein contained prevents any such person from being proceeded against as for an indictable offence, if not previously convicted of the same offence.

*Registry of Trade Unions.*

**16.** THE Registrar shall make an annual report to the Minister with respect to the matters transacted by him in pursuance of this Act, and the Minister shall cause copies of such report to be forthwith laid before Parliament.

Annual report to the Minister.  
Imp. Act, 34 and 35  
Vict., c. 31, s. 17.

**17.** WITH respect to the registry under this Act of a trade union, and of the rules thereof, the following provisions shall have effect:—

Regulations for registry.  
Imp. Act, 34 and 35  
Vict., c. 31, s. 13.

- (1.) An application to register the trade union and two printed copies of the rules, together with a list of the titles and names of the officers, shall be sent to the Registrar.
- (2.) The Registrar, upon being satisfied that the trade union has complied with the regulations respecting registry in force under this Act, shall register such trade union and such rules: Provided that the Registrar shall not register any trade union any of the rules or purposes whereof are in any respect illegal or contrary to public policy.
- (3.) No trade union shall be registered under a name identical with that under which any other existing trade union has been registered, or so nearly resembling such name as to be likely, in the opinion of the Registrar, to deceive the members or the public.
- (4.) Where a trade union applying to be registered has been in operation for more than a year before the date of such application, there shall be delivered to the Registrar

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before the registry thereof a general statement of the receipts, funds, effects, and expenditure of such trade union, in the same form and showing the same particulars as if it were the annual general statement required as hereinafter mentioned to be transmitted annually to the Registrar.

- (5.) The Registrar upon registering such trade union shall issue a certificate of registry, which certificate, unless proved to have been withdrawn or cancelled, shall be conclusive evidence that the regulations of this Act with respect to registry have been complied with.
- (6.) On lodgment with the Registrar of any application to register any trade union, there shall be paid to the Registrar a fee of One pound.

**18.** WITH respect to the rules of a trade union registered under this Act, the following provisions shall have effect:—

Rules of registered trade unions.  
Imp. Act, 34 and 35 Vict., c. 31, s. 14.  
Schedule.

- (1.) The rules of every such trade union shall contain provisions in respect of the several matters mentioned in the schedule of this Act.
- (2.) No amendment of a rule made by a trade union registered under this Act shall be valid until such amendment has been registered, for which purpose two copies of the same, signed by three members and the secretary, shall be sent to the Registrar.
- (3.) On the lodgment with the Registrar of any amendment of rules for registration there shall be paid to the Registrar a fee of Two shillings and sixpence.
- (4.) The Registrar upon being satisfied that there has been compliance with the regulations respecting registry in force under this Act, shall register such amendment of rules: Provided that the Registrar shall not register any amendment of rules which is in any respect illegal or contrary to public policy.
- (5.) The Registrar upon registering such amendment of rules shall issue a certificate of registry, which certificate shall be conclusive evidence that the regulations of this Act with respect to registry have been complied with.
- (6.) A copy of the rules shall be delivered by the trade union to every person on demand, on payment of a sum not exceeding One shilling.

**19.** EVERY registered trade union shall have a registered office to which all communications and notices may be addressed. If any such trade union is in operation for seven days without having

Registered office of trade union.  
Imp. Act, 34 and 35 Vict., c. 31, s. 15.

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such an office, such trade union and every officer thereof shall each incur a penalty not exceeding Five pounds for every day during which it is so in operation.

Notice of the situation of such registered office, and of any change therein, shall be given to the Registrar and recorded by him; until such notice is given, the trade union shall not be deemed to have complied with the provisions of this section.

**20.** A COPY of every resolution appointing or removing a trustee of a trade union or any branch thereof, signed, in the case of a resolution appointing a trustee, by the trustee so appointed and by the secretary of the trade union, and in the case of a resolution removing a trustee by the secretary of the trade union, shall within fourteen days from the passing thereof be sent to the Registrar and recorded by him.

Registry of trustees of trade union.

**21.** (1.) NO certificate of registration of a trade union shall be withdrawn or cancelled otherwise than by the Registrar, and in the following cases:—

Withdrawal or cancelling of certificate.

(a.) At the request of the trade union, to be evidenced in such manner as the Registrar shall from time to time direct:

Imp. Act, 39 and 40 Vict., c. 22, s. 8.

(b.) On proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that the registration of the trade union is or has become void under section eight of this Act, or that such trade union has, after notice from the Registrar, violated any of the provisions of this Act, or that the number of members of the trade union has been reduced to less than seven, or that the trade union has ceased to exist.

(2.) Not less than one month's notice in writing, specifying briefly the ground of any proposed withdrawal or cancelling of certificate (unless where the same is shown to be or to have become void as aforesaid, in which case it shall be the duty of the Registrar to cancel the same forthwith) shall be given by a Registrar to a trade union before the certificate of registration of the same can be withdrawn or cancelled, unless at the request of such union.

(3.) A trade union whose certificate of registration has been withdrawn or cancelled shall, from the time of such withdrawal or cancelling, absolutely cease to enjoy the privileges of a registered trade union, but without prejudice to any liability actually incurred by such trade union, which may be enforced against the same as if such withdrawal or cancelling had not taken place.

**22.** A PERSON under the age of twenty-one, but above the age of sixteen, may be a member of a trade union, unless provision be made in the rules thereof to the contrary, and may, subject to

Membership of trade unions.

Imp. Act, 39 and 40 Vict., c. 22, s. 9.

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the rules of the trade union, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the committee of management, trustee, or treasurer of the trade union.

Nominee of deceased member may receive under £50.

Imp. Act, 39 and 40 Vict., c. 22, s. 10.

**23.** A MEMBER of a registered trade union not being under the age of sixteen years may, by writing under his hand, served at the registered office of the union, nominate any person not being an officer or servant of the 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 (not exceeding One hundred and fifty pounds) shall be paid at his decease, and may from time to time revoke or vary such nomination by a writing under his hand similarly served; and on receiving satisfactory proof of the death of a nominator, the trade union shall pay to the nominee the amount due to the deceased member not exceeding the sum aforesaid.

Change of name.  
Imp. Act, 39 and 40 Vict., c. 22, s. 11.

**24.** A REGISTERED trade union may, with the approval in writing of the Registrar, change its name by the consent of a majority of the total number of members.

No such change shall affect any right or obligation of the trade union or of any member thereof, and any pending legal proceedings may be continued by or against the trustees of the trade union or any other officer, notwithstanding its new name.

Amalgamation.  
Imp. Act, 39 and 40 Vict., c. 22, s. 12.

**25.** ANY two or more registered trade unions may, by the consent of a majority of the members of each or every such trade union, become amalgamated together as one trade union, with or without any dissolution or division of the funds of such trade unions or either or any of them; but no amalgamation shall prejudice any right of a creditor of any union party thereto.

Registry of change of name or amalgamation.

Imp. Act, 39 and 40 Vict., c. 22, s. 13.

**26.** (1.) NOTICE in writing of every change of name or amalgamation signed, in the case of a change of name, by seven members, and countersigned by the secretary of the trade union changing its name, and accompanied by a declaration by such secretary that the provisions of this Act in respect of changes of names have been complied with, and, in the case of an amalgamation, signed by the seven members and countersigned by the secretary of each or every union party thereto, and accompanied by a declaration by each or every such secretary that the provisions of this Act in respect of amalgamations have been complied with, shall be sent to the Registrar and registered by him.

(2.) Until such change of name or amalgamation is so registered the same shall not take effect.

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**27.** THE rules of every registered trade union shall provide for the manner of dissolving the same, and notice of every dissolution of a trade union under the hand of the secretary and seven members of the same shall be sent within fourteen days thereafter to the Registrar.

Dissolution.

Imp. Act, 39 and 40  
Vict., c. 22, s. 14.

**28.** A TRADE union which fails to give any notice or send any document which it is required by this Act or by its rules, to give or send, and every officer or other person bound by the rules thereof or by this Act to give or send the same, or if there be no such officer or other person, then every member of the committee of management of the union, unless proved to have been ignorant of or to have attempted to prevent the omission to give or send the same, is liable to a penalty of not less than One pound and not more than Five pounds, recoverable at the suit of the Registrar or of any person aggrieved, and to an additional penalty of the like amount for each week during which the omission continues.

Penalty for failure  
to give notice.

Imp. Act, 39 and 40  
Vict., c. 22, s. 15.

**29.** (1.) A GENERAL audited statement of the receipts, funds, effects, and expenditure of every registered trade union, showing fully the assets and liabilities at the date, and the receipts and expenditure during the year preceding the date to which it is made out, shall be transmitted to the Registrar before the thirty-first day of March in every year.

Annual returns to  
be prepared as  
Registrar may  
direct.

Imp. Act, 34 and 35  
Vict., c. 31, s. 16.

(2.) Such statement shall show separately the expenditure in respect of the several objects of the trade union, and shall be prepared and made out up to such date, in such form, and shall comprise such particulars as the Registrar may from time to time require; and every member of and depositor in such trade union shall be entitled to receive, on application to the treasurer or secretary of that trade union, a copy of such general statement without payment.

(3.) Every trade union which fails to comply with or acts in contravention of this section, and also every officer of the trade union so failing or acting, shall each be liable to a penalty not exceeding Five pounds for each offence.

(4.) Every person who wilfully makes or orders to be made any false entry in or any omission from any such general statement shall be liable to a penalty not exceeding Fifty pounds for each offence.

**30.** IF any person, with intent to mislead or defraud, gives to any member of a trade union registered under this Act, or to any person intending or applying to become a member of such trade union, a copy of any rules or of any alterations or amendments of

Circulating false  
copies of rules, etc.,  
to be a misde-  
meanour.

Imp. Act, 34 and 35  
Vict., c. 31, s. 18.

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the same other than those respectively which are registered for the time being, on the pretence that the same are the registered rules of such trade union, or that there are no other rules of such trade union, or if any person with the intent aforesaid gives a copy of any rules to any person on the pretence that such rules are the rules of a trade union registered under this Act which is not so registered, every person so offending shall be deemed guilty of a misdemeanour.

*Miscellaneous.*

Application of  
Industrial  
Conciliation and  
Arbitration Act,  
1902.

**31.** (1.) A REGISTERED trade union may be registered under the Industrial Conciliation and Arbitration Act, 1902, by the same name as it is registered under this Act with the insertion of the additional words provided for by section five of the said Act.

(2.) Every branch of a trade union shall be considered for the purposes of the said Act as a distinct union and may be separately registered.

(3.) For the purposes of the said Act the rules for the time being of the trade union, with such addition or modification as may be necessary to give effect to the said Act, shall, when registered under the said Act, be deemed to be the rules of the industrial union.

Proceedings in re-  
gard to offences and  
penalties.

**32.** EVERY trade union, officer, or member of a trade union, or other person guilty of an offence under this Act for which no penalty is expressly provided herein, shall be liable, on conviction, to a penalty not exceeding Ten pounds on information or complaint by the Registrar or any person aggrieved.

Governor may make  
regulations.

Imp. Act, 34 and 35  
Vict., c. 31, s. 13 (6).

**33.** (1.) THE Governor may from time to time make, alter, and repeal regulations for the following purposes, or any of them:—

- (a.) Providing for registry and procedure under this Act, and the seal of the Registrar and the forms to be used for such registry
- (b.) Prescribing the duties and functions of the Registrar.
- (c.) Prescribing the conditions under which and the manner in which inspection of documents kept by the Registrar may be made
- (d.) Determining a scale of fees to be paid for matters transacted, and the inspection of documents under the Act, including the fees to be paid to the Registrar for any certificate
- (e.) Providing for all other matters and things necessary for carrying out the objects of this Act.

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(2.) Such regulations may impose penalties for acts or defaults contrary thereto not exceeding Ten pounds for any such act or default.

**34.** NOTHING contained in this Act shall in any way be deemed or construed to impose any liability on His Majesty's Government. Saving liability of His Majesty's Government.

**35.** SECTIONS A, D, F, G, H, and I, contained in the Second Schedule of the Interpretation Act, 1898, shall be incorporated herewith. Application of Interpretation Act, 1898.

In the name and on behalf of the King I hereby assent to this Act.

ARTHUR LAWLEY, Governor.

SCHEDULE.

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Matters to be provided for by the rules of trade unions registered under this Act:—

Section 18 (1).

1. The name and the situation of the registered office 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 terms of admission of members, the conditions under which any member may become entitled to any benefit assured thereby, the fines and forfeitures to be imposed on any member and the consequences of non-payment of any subscription or fine.
3. The mode of holding meetings and right of voting and the manner of making, altering, amending, and rescinding rules.
4. The appointment and removal of a committee of management (by whatever name), of trustees, a secretary, treasurer, and other officers (if any), and a provision that there shall be at least three trustees of the trade union.
5. The investment of the funds, the keeping of the accounts, and the audit of the same once a year at least.
6. An annual return to the Registrar of the receipts, funds, effects, expenditure, and number of members of the trade union.
7. The inspection of the books and names of members of the trade union by every person having an interest in the funds of the trade union.
8. The manner of dissolving the trade union.