

# **HOUSE OF THE PEOPLE**

## **THE TRADE UNIONS BILL, 1950**

**( REPORT OF THE SELECT COMMITTEE )**



**PARLIAMENT SECRETARIAT  
NEW DELHI.**

*Dec, 1950*

List of Reports of Select Committees presented  
to Parliament in 1950.

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S.No.	Short title of the Bill.	Date of presen- tation.	Date of publicat- ion.
1.	The Industrial Disputes (Appellate Tribunal) Bill, 1949.	10.2.50	25.2.50
2.	The Mines Bill, 1949.✓	10.2.50	25.2.50
3.	The Industries (Development and Control) Bill, 1949.✓	10.2.50	25.2.50
4.	The Banking Companies (Amendment) Bill, 1949.	16.2.50	25.2.50
5.	The Army Bill, 1949.	21.3.50	1.4.50
6.	The Air Force Bill, 1949.	21.3.50	1.4.50
7.	The Insurance (Amendment) Bill, 1949.	24.3.50	1.4.50
8.	The Finance Bill, 1950.✓	27.3.50	1.4.50
9.	The Road Transport Corporations Bill, 1949.✓	15.11.50	18.11.50
10.	The Labour Relations Bill, 1950.	1.12.50	16.12.50
11.	The Trade Unions Bill, 1950.	1.12.50	16.12.50
12.	The Reserve Bank of India (Amendment) Bill, 1950.	13.12.50	23.12.50 .

# THE TRADE UNIONS BILL, 1950

## PARLIAMENT OF INDIA

### REPORT OF THE SELECT COMMITTEE ON THE TRADE UNIONS BILL, 1950

We the undersigned members of the Select Committee to which the Bill to provide for the registration and recognition of trade unions and in certain respects to define the law relating to registered and recognised trade unions and to certain unfair practices by employers and recognised trade unions was referred, have considered the Bill, and have now the honour to submit this our report with the Bill as amended by us annexed thereto.

Upon the changes proposed by us, which are not formal or consequential, we note as follows:—

#### *Clause 2*

*Clause 2(1).*—We think that the Central Government should be the appropriate Government in relation to any establishment in which more than 50 per cent. of the total capital is provided by the Central Government. This provision has been made in part (x).

*Clause 2(2).*—The concept of civil servant is a little complicated, and the definition has been redrafted to make the meaning more clear. We, however, think that when the appropriate Government by notification amends the definition of "civil servant", such notification should be placed before Parliament or the Legislature of the State, as the case may be. A proviso to this effect has been added to this clause.

*Clause 2(3).*—We consider that domestic servants should not be excluded from the category of employees and the definition of "employee" has been modified accordingly.

*Clause 2(4).*—Under the existing definition, a contractor would be the employer in relation to persons employed by him. This may sometimes cause hardship to the employees. We have accordingly provided that, in certain circumstances in relation to contractor's labour, both the contractor and the ultimate employer engaging the contractor should have the obligations of the employer. The definition has accordingly been modified, and other changes are formal changes.

*Clause 2(9).*—We are of opinion that the dismissal of an employee should not be taken out of the purview of a labour dispute. We, however, feel that a dispute should not arise until the employee has actually been dismissed. The proviso to this clause has accordingly been omitted and the definition has been redrafted.

*Clause 2(10).*—We have inserted this new clause to define the expression "lock-out".

*Clause 2(17) [original clause 2(16)].*—The definition of "strike" has been modified so as to include within its scope any strike which is declared to help the employees of another establishment to put pressure on their employer.

*Clause 4.*—We consider that when application for registration of a trade union is made, at least five of the persons making the application should be ordinary members. We have inserted two provisos to clause (e) to provide that a person shall not be excluded from the membership of a trade union

merely on grounds of sex, religion or caste. We have also provided that the restrictions applicable to the admission of ordinary members in a trade union should not apply to a federation of trade unions.

*Clause 10.*—We have substituted the word “suspended” for the word “withdrawn”, and have added a proviso to make the meaning clear.

*Clause 11.*—We are of opinion that it is not necessary to provide for a second appeal to the High Court, and hence sub-clause (4) has been omitted.

*Clause 16.*—We have made some drafting changes in this clause.

*Clause 20.*—We have omitted a few words as being unnecessary.

*Clause 24.*—Under the existing clause, the number of outsiders who may be officers of a trade union is restricted to four or one-fourth of the total number of members of the executive, whichever is less. We, however, feel that in the case of a trade union which is connected with a large number of undertakings and which has a large membership spread over a wide area, it may be necessary to relax the restriction in respect of outsiders. We have, therefore, made a provision empowering the Government to prescribe by regulations the admission of outsiders as officers of a trade union. We have also redrafted this clause.

*Clause 31.*—We are of opinion that where Labour Courts are constituted under the Labour Relations Act, such Courts should be vested with all the powers of Labour Courts under this Act. We have amended sub-clause (1) accordingly. We have also amended sub-clause (2) in order that the qualifications of presiding officers of Labour Courts under both the Acts may be the same.

*Clauses 32 and 33.*—We have rearranged these two clauses, and sub-clauses (2), (3) and (4) of clause 33 have been incorporated as sub-clauses (5), (6) and (7) of clause 32.

In sub-clause (1) of clause 33, we have slightly amended part (c) in order to make it clear that a trade union may be representative of all the employees or a particular class of employees in an establishment.

We have omitted part (d) as this provision has already been inserted in clause 6.

We think that it should be clearly laid down in the Act that no strike should be declared until the majority of the members have by secret ballot decided in favour of such strike. Part (e) has accordingly been amended.

We also think that meetings of the executive committee of a trade union should be held at least once in every three months.

*Clause 34.*—We are of opinion that it should be laid down by rules as to how to determine the representative character of a trade union. We have modified sub-clause (4) accordingly.

*Clause 35.*—We consider that it is necessary to specify the rights of a recognised trade union in greater details and we have accordingly amended sub-clause (4).

*Clauses 40 and 41.*—We are of opinion that the refusal to enter into negotiations to settle a labour dispute either by the employer or a trade union or a certified bargaining agent is an unfair practice. So also the declaration of an illegal lock-out is an unfair practice on the part of an employer. We have amended these clauses accordingly.

*Clause 45.*—We consider that if an employer goes on committing unfair practices, the penalty for subsequent convictions should be heavier. We have accordingly amended this clause.

2. The Bill was published in Part V of the Gazette of India dated the 4th March, 1950.

3. We think that the Bill has not been so altered as to require circulation under rule 77(4) of the Rules of Procedure and Conduct of Business in Parliament, and we recommend that it be passed as now amended.

B. R. AMBEDKAR  
 JAGJIVAN RAM  
 M. R. MASANI  
 RAMRAJ JAJWARE  
 \*TRIBHUWAN NARAYAN SINGH  
 \*K. T. SHAH  
 BALWANT SINHA MEHTA  
 M. L. DWIVEDI  
 R. L. MALVIYA  
 SURENDRANATH BURAGOHAIN  
 G. DURGABAI  
 HUKAM SINGH  
 A. C. GUHA  
 HARIHARNATH SHASTRI  
 RASOOLKHAN  
 †\*DAMODAR SWARUP SETH  
 A. K. MENON  
 AWADHESHWAR PRASAD SINHA  
 V. KODAN DARAMA REDDY  
 CHANDRIKA RAM

NEW DELHI;  
 The 1st December, 1950.

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\* Subject to a minute of dissent.  
 Subject to minutes of dissent.

*Minutes of Dissent*

## I

While I am in general agreement with the provisions of the Trade Unions Bill as amended by the Select Committee I feel that employees of munitions and such other factories as are run by the Defence Department should have been specifically excluded from the purview of this measure. Surely, workers in such factories which are so intimately connected with national security should not be governed by the ordinary Trade Union Law. I therefore suggest that a specific provision should be made in the Bill excluding workers in munitions and other factories under the control of the Defence Department from the purview of this Bill.

Similarly, domestic servants should be excluded from the operation of this measure. I disagree with the amendment made by the Select Committee treating domestic servants on par with other classes of employees.

Subject to the above note I sign the report of the Select Committee.

TRIBHUAN NARAYAN SINGH

NEW DELHI;

*The 1st December, 1950.*

## II

1. We regret we are unable to agree with my colleagues of the majority in the Select Committee on this Bill, as I feel that, on many points, too numerous to be all detailed here, there are radical differences between us. These are matters of fundamental principle and vital importance to the progress of organised labour in the country. I shall, however, mention a few of the most important to illustrate the nature and extent of the divergence between my views and those of the majority of my colleagues on the Select Committee.

2. There are several items in the clause giving definitions of the leading terms in the Bill, which, read with other clauses, as well as with the Labour Relations Bill, would, in effect, deny the Right of Association to the Civil Servant. This category of workers has been defined sufficiently widely to include a large variety, and a still larger number, of employees,—large, both in itself absolutely, and large, also, in proportion to the total strength of organised workers in the country. The Constitution of India enumerates the Right of Association as among the Fundamental Rights of Citizenship. The declaration of Human Rights, internationally accepted as such, also includes the right of association as among the elementary human rights. Nevertheless, this provision virtually denies that right to a very large category of workers. The Civil Servant does not cease to be a citizen, or a human being, solemnly assured of certain basic rights under the Constitution as well as by international convention, merely because he accepts employment under Government, whether at the Centre or in the States, or even in a large variety of Public Bodies, Local Authorities or Statutory Corporations. To deny or restrict such a basic Right by local legislation is, therefore, against the very foundation of Labour Organisation. I, therefore, dissent radically, in this regard, from the majority of my colleagues.

3. Trade Unionisation is, we may add, permitted and recognised, in many advanced, industrialised, democratic countries, in branches of the Civil Service comprising such Security Services as the Police. There is, therefore, no reason of principle or precedent why we should deny this obvious constitutional Right to this class of our citizens, engaged in public service.

4. If the underlying principle for such denial or restriction is the belief that Public Service is under model conditions of employment, and relations between employers and the employed, recollections of frequent strikes or threats of strike, in our leading departments of public service would dispel any such illusion. Public employment needs as much the spur or the curb of strongly unionised labours to keep to the mark, as labour engaged under any private, profit seeking employer. In fact so long as a mixed economy prevails, and considerable sectors of workers are under private as well as under public employment, the latter class of enterprises would be indulging in unfair competition, if the labour conditions of its employees are differentially treated.

5. The distinction between gazetted and non-gazetted staff or demarcation on the line of salary rates, in the case of specified categories of public employees, is as anomalous as it is illogical. The power given under the Bill to the "Appropriate Government" to vary or modify the definition of "Civil Servant" is calculated to introduce or intensify party spirit in public service, or encourage invidious undesirable favouritism by the powers that be. This does not in any way modify the primary objection to the treatment of the Civil Servant unionising; it only creates new obstacles to the growth and spread of the trade union movement in the country.

6. While welcoming the amendment made by the Select Committee whereby domestic servants would no longer be excluded from the advantages of this legislation, it must be pointed out that there is nothing in the entire Bill as originally presented or as amended by the Select Committee, which would directly foster and encourage the growth of the trade union movement in this yet unorganised class of workers. They are exposed to the worst form of exploitation. A comprehensive measure, such as this purports to be, should safeguard and protect, not only the rights and interests of existing Unions; it must stimulate and actively promote the spirit of organisation, so as the more effectively to safeguard the interest of all classes of labour equally.

7. The clauses relating to the Registration of Trade Unions, the Conditions for securing registration, for the refusal, suspension or cancellation of Registration, are too cumbrous and complicated for the average employee. The provisions for appeal against the refusal, suspension or cancellation of registration are calculated, rather to involve intending Unions in considerable expenditure of time and money, than to secure justice, or effective safeguard for the rights and interests of organised workers.

8. Chapter III of the Bill, entitled "Rights and Liabilities of Registered Trade Unions", seems to be somewhat of a misnomer. There are more onerous obligations or liabilities cast upon the Registered Trade Unions under Chapter, than rights, benefits or advantages assured. The denial, by implication if not by express provision, of the right to political activity to Trade Unions consisting wholly or partly of Civil Servants, may be a inor handicap, though, in point of principle, its importance can never be exaggerated. But the provision requiring the maintenance of a separate Political Fund, if any be maintained at all, and the denial of the Union's right to make subscriptions by members for political purposes compulsory, are as retrograde as they are uncalled for. The lesson of the classic Osborne Judgement in the history of the British Trade Unions seems to be either unknown to the sponsors of the Bill and to the majority of the Select Committee; or they have sadly failed to appreciate its significance. The Labour Party in Britain would never have attained real, effective power in the government of the country, if Trade Unions, which form the core and backbone of the labour movement, had been thus handicapped against political activity to promote their immediate interests, and realise their ultimate objectives. It is such provisions as these which lay a heavy discount on constitutional methods of effecting radical social changes, and place an equally high premium on violent, revolutionary means unavoidable adopted by

a despairing and exasperated proletariat. Modern trends in all advanced industrialised communities, which found their social structure and political activity on democratic principles, are in favour of permitting all legitimate constitutional activity, whether of a political or of an economic, character to Workers' Organisations *Mutatis Mutandis* these observations also apply to the Chapter on the Recognition of Trade Union.

9. Besides, the attempt rigorously to keep apart, or mutually distinguish from one another politics and economics, is an anachronism impossible to sustain in a free, sovereign country. The very Preamble of our Constitution promises Social Justice and Economic Equality to all its citizens. The two are facets of the same idea, not intrinsically hostile mutually, nor incompatible one with the other. There is no problem of politics, in a modern industrialised community, which has not its economic aspect; and *vice versa*. All aspects of modern life, all activities, all interests and objectives are so closely interconnected and interdependent, that any attempt to keep them wholly apart and uninfluenced by one another is doomed to unmitigated failure, whether by silent undermining, or open opposition. It is a cant which could be understood when the foreigner ruled and exploited the land and its people; but today, it is a doctrine, neither intelligible nor excusable, neither practicable nor permissible to any one claiming in the least to be a lover of justice or freedom.

10. Attention may be drawn, in this connection, to the clause which restricts the number of proportion or persons who are not "ordinary members" of a Trade Union, to be elected office bearers. This provision rests on a basic misconception of the role of the ordinary citizen in the progress and development of Trade Unionism. The movement for workers' Organisations is still in its infancy in this country. An overwhelming proportion of our population is illiterate; and workers in modern industry are no exception the rule.

11. The problem, again, of a country's aggregate economy in which the place and function of organised labour is only one factor along with several others to be considered and ordained, are much too complex, numerous, and many-sided to be properly appreciated, in their true perspective and proportion, by the average toiler. He is too exhausted and wearied by his daily dose of labour to have any energy left for analysing and understanding, too unversed in the mysteries of economics to solve such complex questions at all satisfactorily even to himself. On the other hand, the employing class, or its minions, though better educated, with a wider understanding and deeper insight than the average worker, are too hostile by their education and outlook, their training and experience, to have any real sympathy with the demands of Labour, ever growing more conscious of its dues. Very few of our fellow citizens have innate sympathy and real understanding, not only of the problems of a given Union, or even of the Working Class as a whole, but also of our aggregate national economy, its predicament and potentiality. If they come forward to guide, advise, lead or organise Labour, and yet are excluded or restricted from offering the full benefit of their education, information, understanding or experience to the growing muds of Labour, the interests of Labour,—both as a class and as a factor in the production of new wealth,—will not suffer alone; but the long-range and aggregate interests of the community collectively, of the national economy as a whole, will suffer even more irreparably.

12. Our objection to this provision rests not only on the long range interests of the community collectively, nor on the demands of industrial peace and social justice. Even on the more immediate and narrower ground of a given labour union, we think it would be harmful to prohibit or restrict a full measure of guidance, advice, or service by experienced "outsiders". Ordinary workers must, of course, have their full share in the conduct of their own affairs and shaping of their basic policy. But without an adequate leavening by the broader outlook and wider sympathies of such outsiders, there would be ever present



a danger of narrowness of outlook, of obstinacy in negotiation, which may prove injurious to the cause of the given Trade Union itself, and to the progress of labour organisation as a whole. We would, therefore, put no statutory, or specific, limit on the number or proportion of the non-ordinary members who can be elected to executive office in a Trade Union.

13. The definition, or enumeration, of 'Unfair Practices' (Chapter V) and the penalties provided against them, display a lack of sympathy with the labour movement and its customary activities, which cannot but be deprecated.

14. There are many other provisions, in the wording or spirit of which we differ from the majority of our colleagues. We shall bring out these differences concretely when the Bill is considered clause by clause. For the purpose of this Minute, we trust enough has been said to show how deep, how wide, how varied is our difference with our colleagues of the majority.

K. T. SHAH

DAMODAR SWARUP SETH

NEW DELHI;

The 1st December, 1950.

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### *Minute of Dissent*

Not having been able to see eye to eye with the majority of my colleagues of the Select Committee on the Trade Unions Bill, I regret I feel compelled to write this separate note of Dissent.

#### *Introductory :*

The broad principles on the basis of which I am totally opposed to the enactment into law of these measures are as follows:

- (a) Right of Association and Right to Organise.
- (b) Right of Collective Bargaining.
- (c) Right of Strike.
- (d) Free Trade Unionism.
- (e) Trade Union Democracy.

It would not be inappropriate to note here that the function of any Labour Legislation should primarily be:

- (a) Protection of Labour against certain civil and criminal liabilities in common law such as conspiracy, restraint of trade, picketting and the like, as Labour happens to be the weaker party *vis-a-vis* the Employer;
- (b) To advance the cause of Labour by making Statutory Provisions for living wages, social security, safe and healthy conditions of work, better and improved conditions of living; and effective voice in the management etc. which alone can create the necessary psychology in workers for obtaining increased production, expansion of industries and prosperity of the country.

#### *2. Right of Association and Right to organise.*

The Indian Trade Union Act, 1926, guaranteed this right. It has been regarded fundamental by the I.L.O. and by the U.N.O. The International Confederation of Free Trade Unions considered it inviolate. Not only that, it has been guaranteed even under the Constitution of India and to that extent, the provisions of the Trade Unions Bill, if enacted into law, will be unconstitutional and therefore null and void.

3. The Bill however violates these rights as follows:—

- (a) Restrictions on the exercise of the right by Civil servants and Government Employees, create invidious distinction between these and other employees and are incompatible with the principle of the Right of Association and Right to Organise;
- (b) The scope of political awakening among the workers through their Trade Unions should be widened by extending the field for political activities of any kind;
- (c) The severe restrictions placed on participation of non-employees among workers through their Trade Unions movement as honorary members of a trade union must have been removed, as the working class in this country, are illiterate, backward, and unfamiliar with the English language or any kind of organisational or administrative work as it is, and should have been allowed the benefit of the services of such honorary members limiting the number to at least 33 per cent., if not 50 per cent.
- (d) Right of Strike:

While voluntary arbitration is always welcome in the exercise of the workers right of collective bargaining in all democratic countries, Right of Strike has justifiably been considered the chief weapon in the armoury of the working class.

The wide definition of strike, however, in the Trade Union Bill (clause 2-17) read with the provisions regarding strikes in the Labour Relations Bill may at the intervention of Government, make any strike a criminal offence, being either illegal or irregular and will consequently be accompanied with heavy punishments on the employees and their trade unions involving loss of legal personality and consequential loss of protection and benefits of the law. These provisions will quite naturally, have their adverse repercussions on the psychology of the workers, as they will severely restrict the workers right of collective bargaining, assured to them by the I. L. O.

4. Amalgamation of Trade Unions in the same establishment or class of establishments should, on similar grounds, be encouraged by reducing the minimum number from 50 per cent. to 25 per cent. of the total number of each of the unions concerned. Where however rival unions exist, let democracy be tried out in its true spirit and justice done by providing an impartial machinery such as the Labour Court or the National Labour Relations Board, as in U.S.A., instead of having judicial decisions to be made by the Registrar as under Section 35(3) of the Trade Unions Bill.

5. The Trade Union Rights as enjoyed by "approved unions" under the Bombay Industrial Relations Act, 1946, should be made available to all registered unions such as:—

- (a) Collection of dues from union members on the premises, where wages are paid;
- (b) Putting up union's "Notice Board" for affixing its notices on the undertaking's premises;
- (c) Holding discussions with union members on such premises;
- (d) Meeting and discussing employees' grievances with the employer;
- (e) Inspection of any place of the undertaking where any member may be working.

DAMODAR SWARUP SETH

NEW DELHI;  
The 1st December, 1950.

# THE TRADE UNIONS BILL, 1950.

(AS AMENDED BY THE SELECT COMMITTEE)

(Words *sidelined* or *underlined* indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A

## BILL

*to provide for the registration and recognition of trade unions and in certain respects to define the law relating to registered and recognised trade unions and to certain unfair practices by employers and recognised trade unions.*

BE it enacted by Parliament as follows:—

### CHAPTER I

#### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the Trade Unions Act, 1950.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

**2. Interpretation.**— In this Act, unless the context otherwise requires,—

(1) “appropriate Government” means—

(a) the Central Government, in relation to any trade union whose objects are not confined to one State or of which not less than fifty per cent. of the members are persons employed to do any work for hire or reward in any of the following establishments, namely:—

(i) railways,

(ii) major ports,

(iii) any form of inland or coastal transport which maintains establishments and connected services in more than one State,

(iv) mines,

(v) oilfields,

(vi) industries the control of which by the Union has been declared by Parliament by law to be expedient in the public interest and which are notified in this behalf by the Central Government in the Official Gazette,

(vii) banking companies having branches in more than one State,

(viii) insurance companies having branches in more than one State,

(ix) such corporations established by the authority of the Central Government as are notified in this behalf by that Government in the Official Gazette,

(x) establishments carried on by or under the authority of the Central Government or in which not less than fifty per cent. of the total capital is provided by that Government,

(2) any other establishment or class of establishments the objects or activities of which are not confined to one State and which is notified in this behalf by the Central Government in the Official Gazette, and

(2) (a) "civil servant" means a person who is a member of a civil service of the Union or an All-India service or a civil service of a State or holds any civil post under the Union or a State:

Provided that such a person shall not be deemed to be a civil servant if he—

(i) is paid from contingencies, or

(ii) is employed either as a non-gazetted servant or as a gazetted servant drawing a basic pay (excluding allowances) of not less than two hundred rupees per mensem in any of the following establishments owned or managed by or under the Central or a State Government, namely:—

I. railways and other forms of transport;

II. ports, docks, wharves or jetties;

III. telegraph, telephone, wireless telegraph or broadcasting establishments;

IV. mints;

V. printing presses;

VI. ordnance factories, depots or other installations;

VII. public works establishments, in so far as they relate to work-charged staff;

VIII. irrigation and electric power establishments;

IX. plantations;

X. mines, as defined in clause (f) of section 3 of the Indian Mines Act, 1923 (IV of 1923).

XI. factories, as defined in clause (m) of section 2 of the Factories Act, 1948 (LXIII of 1948).

*Explanation.*—Notwithstanding anything contained in the proviso, a person shall not be deemed to be excluded from being a civil servant within the meaning of this clause if such person is employed—

(i) in the offices of the Railway Board, or of the General Managers of Railways and other forms of transport, or

(ii) in the offices of the Director-General of Posts and Telegraphs and any postmaster-general or the Director-General of Broadcasting; or

(iii) in the offices of the Director-General of Ordnance Factories; or

(iv) in the offices of any chief engineer or superintending engineer or any public works establishment; or

(v) as a telegraphist, telephone or wireless operator;

(b) the appropriate Government may, if it is satisfied that the public interest so requires, by notification in the Official Gazette, amend the entries specified in clause (a) so as to include in, or exclude from, the definition of "civil servant" any class of persons employed in any office or in any establishment or class of establishments:

Provided that no such notification shall be issued so as to include any class of persons within the definition of "civil servant" unless the appropriate Government is satisfied that the conditions of service applicable to such class of persons are not less satisfactory than those applicable to civil servants of a similar class:

Provided further that every such notification shall, on the first available opportunity, be laid by the appropriate Government before Parliament or, as the case may be, before the Legislature of the State;

(3) "employee" means any person employed in any establishment to do any work for hire or reward, whether the terms of employment be express or implied, and includes any person who has been dismissed or discharged or whose work has ceased in connection with, or as a consequence of, a labour dispute or from whose dismissal or discharge a labour dispute has arisen;  
\* \* \*

(4) "employer", in relation to any establishment, means a person who engages the services of another person to do any work for hire or reward in that establishment, and includes—

(a) any person who has the ultimate control of such establishment;

(b) in relation to any establishment carried on by or under the authority of any department of the Government, the authority prescribed in this behalf, or, where no authority is so prescribed, the head of the department;

(c) in relation to any establishment carried on by a local authority, the chief executive officer of that authority;

(d) in relation to any person employed in any establishment through any contractor or agent for the execution on the premises of the establishment concerned by or under such contractor or agent of the whole or any part of any work which is ordinarily part of the trade, business, manufacture or industry of the establishment, the person engaging the services of the contractor or agent;

(5) "establishment" means any unit of employment in any trade, business, manufacture, industry, service, calling, profession or other occupation or avocation, and includes any unit of employment under the authority of the \* \* \* Government or a local authority or an association of persons, whether incorporated or not;

(6) "executive" means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted;

(7) "Government employee" means a person who holds any civil post in connection with the affairs of the Union or a State;

(8) "Labour Court" means, in relation to a trade union, a Labour Court appointed by the appropriate Government under sub-section (1) of section 81;

(9) "labour dispute" means any dispute or difference between an employer on the one hand and one or more of his employees on the other, or between employees and employees, concerning—

(a) the employment or non-employment of any employee or class of employees; or

(b) the terms or conditions of employment of any employee or employees generally or any class of them; or

(c) the privileges, rights, duties or liabilities of the employer or of any employee or the employees generally or any class of them, whether or not there is a subsisting agreement between the employer and the employee or employees regarding all or any such matters, and includes any dispute or difference which may arise on the dismissal of an employee or which relates to the reinstatement of such employee;

(10) "lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ any group of his employees, where such closing, suspension or refusal by an employer occurs in consequence of a labour dispute and is intended for the purpose of compelling his employees, or of aiding another employer to compel his employees, to accept terms or conditions of, or affecting, employment;

(11) "officer", in the case of a trade union, includes any member of the executive thereof, but does not include an auditor;

(12) "prescribed" means prescribed by regulations made under this Act;

(13) "recognised trade union" means a trade union recognised under this Act;

(14) "registered office" means that office of a trade union which is registered under this Act as the head office thereof;

(15) "registered trade union" means a trade union registered under this Act;

(16) "Registrar" means a Registrar of trade unions appointed by the appropriate Government under section 3, and "the Registrar", in relation to any trade union, means the Registrar appointed for the State in which the head or registered office, as the case may be, of that trade union is situated;

(17) "strike" means a total or partial cessation of work by employees acting in combination, or a concerted refusal or a refusal under a common understanding, of any group of employees to continue to work where such cessation or refusal by the employees occurs in consequence of a labour dispute and is intended for the purpose of compelling their employer or aiding the employees of any other establishment to compel their employer to accept terms or conditions of, or affecting, employment; "illegal strike" means a strike which by virtue of any law for the time being in force is illegal; and "irregular strike" means an illegal strike or a strike declared by a trade union in contravention of its rules referred to in clause (d) of sub-section (1) of section 38;

(18) "supervisor" means any person who, on behalf of the employer, has the authority to supervise the work of other employees, to direct them in the work to be done, to remedy their grievances, to recommend any action to be taken by the employer, or to transfer an employee from one department to another or to promote or reward an employee, or to discharge, suspend or otherwise punish an employee;

(19) "trade union" means any combination of employers or of employees, whether temporary or permanent, formed primarily for the purpose of regulating the relations between employees and employers or between employees and employees, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions:

Provided that this Act shall not affect—

- (i) any agreement between partners as to their own business;
- (ii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft;
- (20) any reference to an enactment not in force in any Part B State shall, in relation to that State, be construed as a reference to the corresponding law in force in that State.

\* \* \* \* \*

## CHAPTER II

### REGISTRATION OF TRADE UNIONS

**3. Appointment of Registrars.**—The appropriate Government may appoint a person to be the Registrar of trade unions for each State.

**4. Application for registration.**—Any seven or more members of a trade union, of whom not less than five shall be ordinary members may, by subscribing their names to the constitution and rules of the trade union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the trade union under this Act.

**5. Mode of application.**—(1) Every application for registration of a trade union shall be made to the Registrar, and shall be accompanied by a copy of the constitution and rules of the trade union and a statement of the following particulars, namely:—

(a) the names, occupations and addresses of the members making the application;

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

(c) the \* names, ages, addresses, designations and occupations of the officers of the trade union.

(2) Where a trade union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the trade union prepared in such form and containing such particulars as may be prescribed.

**6. Conditions for registration of a trade union.**—A trade union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely:—

(a) the name of the trade union;

(b) \* \* the objects for which the trade union has been established;

(c) \* \* the purposes for which the general funds of the trade union may be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(d) the maintenance of a list of members of the trade union and adequate facilities for the inspection thereof by the officers and members of the trade union;

(e) the admission of ordinary members who shall be persons actually engaged or employed in any establishment or class of establishments with which the trade union is connected, and also the admission of the number of honorary or temporary members as officers referred to in section 24 to form the executive of the trade union:

Provided that no person shall be excluded from the membership of a trade union merely on grounds of sex, religion or caste:

Provided further that the provisions of this clause shall not apply in the case of a federation of trade unions;

(f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(g) the rate of subscription payable by ordinary members which shall not be less than two annas per month, provided that in the case of employees employed in agriculture, cottage industries in rural areas, conservancy service or such other industries as may be notified in this behalf by the appropriate Government in the Official Gazette, a lower rate of subscription per annum may be prescribed;

(h) the circumstances (including default in payment of subscription for a specified period) in which the name of a member shall be removed from the list of members;

(i) the procedure for taking disciplinary action against members who go on strike without the sanction of the executive, or the majority of the members of the trade union, or who otherwise violate the rules of the trade union;

(j) the procedure for taking disciplinary action against officers who contravene the provisions of this Act or of the rules of the trade union;

(k) where the trade union consists, whether wholly or partly, of civil servants, the prohibition of its members from participating directly or indirectly in any form of political activity, and removal of the name of any member who takes part in any form of political activity from the list of its members;

(l) the manner in which the rules may be amended, varied or rescinded;

(m) the manner in which the members of the executive and the other officers of the trade union may, subject to the regulations made under this Act, be appointed and removed;

(n) the safe custody of the funds of the trade union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the officers and members of the trade union; and

(o) the manner in which the trade union may be dissolved and the funds, if any, on such dissolution may be distributed.

#### **7. Power to call for further particulars and to require alteration of name.—**

(1) The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the trade union is entitled to registration under section 6, and may refuse to register the trade union until such information is supplied.

(2) 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 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 union until such alteration has been made.

**8. Registration.—**(1) Within three months of the date of the receipt of an application under section 5, the Registrar shall, after considering whether a trade union has complied with all the requirements of this Act in regard to registration, make an order in writing either directing the registration of the trade union or refusing such registration.

(2) On making an order under sub-section (1) directing the registration of a trade union, the Registrar shall register the trade union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the trade union contained in the statement accompanying the application for registration.



**9. Certificate of registration.**—The Registrar, on registering a trade union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this Act.

**10. Suspension or cancellation of registration.**—A certificate of registration of a trade union may be suspended or cancelled by the Registrar—

(a) on the application of the trade union to be verified in such manner as may be prescribed, or

(b) if the Registrar, either of his own motion or on receipt of a report from any Inspector appointed under this Act, is satisfied that—

(i) the rules of the trade union, registered before the commencement of this Act, have not been amended, within the time allowed by the Registrar, so as to provide for all the matters provision for which is required under section 6; or

(ii) the trade union has ceased to exist; or

(iii) the certificate has been obtained by fraud or mistake; or

(iv) the trade union has, wilfully and after notice from the Registrar, contravened any provision of this Act or of any regulation made thereunder or of any rule of the trade union or allowed any rule of the trade union to be continued in force which is inconsistent with this Act or any regulation made thereunder, or has rescinded any rule of the trade union providing for any matter provision for which is required by section 6; or

(v) the trade union has refused or failed to comply with any term of an order or award made by a court or tribunal, or of a settlement arrived at, or where the trade union is a certified bargaining agent, of a collective agreement concluded, under the Labour Relations Act, 1950; or

(vi) where the trade union consists, whether wholly or partly of civil servants, the trade union has refused or failed to remove the name of any member who has taken part in any political activity from the list of its members:

Provided that not less than two months' previous notice in writing specifying the grounds on which it is proposed to suspend or cancel the certificate shall be given by the Registrar to the trade union before the certificate is suspended or cancelled otherwise than on the application of the trade union:

Provided further that the certificate shall not be suspended or cancelled if the Registrar is satisfied that the grounds specified in the notice referred to in the first proviso have been removed before the expiry of two months from the date of notice.

**11. Appeal.**—(1) Any person aggrieved by any refusal of the Registrar to register a trade union or by the suspension or cancellation of a certificate of registration may, within such period as may be prescribed, prefer an appeal—

(i) to such court or authority as may be prescribed, or

(ii) where no such court or authority has been prescribed under clause (i),—

(a) to the High Court, if the head office of the trade union is situated within the limits of a presidency-town, or

(b) where the head office is situated in any other area, to such court, not inferior to the court of an additional or assistant judge of a principal civil court of original jurisdiction, as the appropriate Government may appoint in this behalf for that area.

(2) The appellate court or authority may dismiss the appeal, or pass an order directing the Registrar to register the trade union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for suspension or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(3) For the purpose of an appeal under sub-section (1), an appellate court or authority shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, 1908 (V of 1908), and may direct by whom the whole or any part of the costs of the appeal shall be paid and such cost shall be recovered as if they had been awarded in a suit under the said Code.

\* \* \* \* \*

**12. Registered office.**—All communications and notices to a registered trade union may be addressed to its registered office, and notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing, and the changed address shall be recorded in the register referred to in section 8.

**13. Incorporation of registered trade unions.**—Every registered trade union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both moveable and immoveable property and to contract, and shall by the said name sue and be sued.

**14. Certain Acts not to apply to registered trade unions.**—The following Acts, namely, the Societies Registration Act, 1860 (XXI of 1860), the Co-operative Societies Act, 1912 (II of 1912), and the Indian Companies Act, 1913 (VII of 1913), shall not apply to any registered trade union, and the registration of any such trade union under any of the aforesaid Acts shall be void.

### CHAPTER III

#### RIGHTS AND LIABILITIES OF REGISTERED TRADE UNIONS

**15. Inspectors.**—(1) The appropriate Government may appoint as many Inspectors as may be necessary for inspecting the registered trade unions and for exercising such other functions as may be prescribed.

(2) An Inspector may be appointed for any specified area or for a specified class of trade unions.

**16. Maintenance of list of members, etc.**—Every registered trade union shall, in such form as may be prescribed, maintain—

- (a) a list of members;
- (b) a register showing particulars of subscription paid by every member;
- (c) an account book showing the receipts and expenditure; and
- (d) a minute book for recording proceedings of the meetings of the executive of the trade union or of the general body or of other members of the trade union.

\* \* \* \* \*

**17. Objects on which general funds may be spent.**—The general funds of a registered trade union shall not be spent on any object other than the following, namely:—

- (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 general 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 such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the trade union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs;

(d) the conduct of labour disputes on behalf of the trade union or any member thereof;

(e) the compensation of members for loss arising out of labour disputes;

(f) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members;

(g) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment;

(h) the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members;

(i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or employees as such;

(j) the payment, in furtherance of any of the objects on which the general funds of the trade union may be spent, of contributions to any cause intended to benefit employees in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the trade union during that year and of the balance at the credit of those funds at the commencement of that year; and

(k) subject to any conditions contained in the notification, any other object notified by the appropriate Government in the Official Gazette.

**18. Constitution of a separate fund for political purposes.**—(1) A registered trade union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2):

Provided that where a trade union consists wholly of Government employees, no such separate fund shall be constituted :

Provided further that where a trade union consists partly of Government employees and partly of other employees, no contribution to such separate fund shall be levied from, or made by, any Government employee.

(2) The objects referred to in sub-section (1) are—

(a) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the Constitution, or of any local authority, before, during or after the election in connection with his candidature or election; or

(b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or

(c) the maintenance of any member of a trade union who is a member of any legislative body constituted under the Constitution, or of any local authority; or

(d) the registration of electors or the selection of a candidate for any legislative body constituted under the Constitution, or for any local authority; or

(e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

(3) No member shall be compelled to contribute to the fund constituted under sub-section (1); and a member who does not contribute to the said fund shall not be excluded from any benefits of the trade union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the trade union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the trade union.

**19. Criminal conspiracy in labour disputes.**—No officer or member of a registered trade union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code (Act XLV of 1860), in respect of any agreement made between the members for the purpose of furthering any such object of the trade union as is specified in section 17, unless the agreement is an agreement to commit an offence.

**20. Immunity from civil suit in certain cases.**—(1) No suit or other legal proceeding 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 furtherance of a labour dispute \* \* \* on the ground only that such 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.

(2) A registered trade union shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortious act done in contemplation or furtherance of a labour dispute by an agent of the trade union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the trade union.

**21. Enforceability of agreements.**—Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered trade union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any civil court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a trade union shall or shall not sell their goods, transact business, work, employ or be employed.

**22. Right to inspect books of trade union.**—The account books of a registered trade union and the list of 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.

**23. Rights of minors to membership of trade unions.**—Any person who has attained the age of fifteen years may be a member of a registered trade union subject to any rules of the trade union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules:

Provided that no person who has not attained the age of eighteen years shall be an officer of any such trade union.

**24. Persons other than ordinary members as officers of trade unions.**—(1) Subject to any regulations made in this behalf by the Central Government, the

number of persons, who, without being ordinary members of any registered trade union are entitled to be officers thereof, shall not exceed four or one-fourth of the total number of members of the executive of that trade union, whichever is less:

Provided that no such person shall be entitled to be an officer of a trade union unless he is a citizen of India:

Provided further that where a trade union consists, whether wholly or partly of civil servants, no person who is not an ordinary member thereof shall be entitled to be an officer of that trade union.

(2) Where a recognised trade union commits any unfair practice referred to in section 40 and the recognition of that trade union is withdrawn by order of a Labour Court under section 36, any person, who is an officer of that trade union without being an ordinary member thereof \* \* \* shall be debarred from becoming an officer of that trade union or any other trade union for a period of three years from the date on which the order of the Labour Court is made.

**25. Change of name.**—Any registered 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 27, change its name.

**26. Amalgamation of trade unions.**—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 such trade unions or either or any of them, provided that the votes of at least one-half of the members of each or every such trade union entitled to vote are recorded, and that at least sixty per cent. of the votes recorded are in favour of the proposal.

**27. Notice of change of name or amalgamation.**—(1) Notice in writing 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 and every trade union which is a party thereto, shall be sent to the Registrar, and where the head office of the amalgamated trade union is situated in a different State, to the Registrar of such State.

(2) If the proposed name 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 the public or the members of either trade union, the Registrar shall refuse to register the change of name.

(3) Save as provided in sub-section (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 register referred to in section 8 and the change of name shall have effect from the date of such registration.

(4) The Registrar of the State in which the head office of the amalgamated trade union is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the trade union formed thereby is entitled to registration under section 6, register the trade union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

**28. Effects of change of name and of amalgamation.**—(1) The change in the name of a registered trade union shall not affect any rights or obligations of the trade union or render defective any legal proceeding by or against the trade union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

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

**29. Dissolution.**—(1) When a registered trade union is dissolved, notice of the dissolution signed by seven members and by the secretary 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 such registration.

(2) Where the dissolution of a registered trade union has been registered and the rules of the trade union do not provide for the distribution of funds of the trade union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

**30. Returns.**—(1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered trade union during the year ending on the 31st day of March next preceding such prescribed date, and of the assets and liabilities of the trade union existing on such 31st day of March and the statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement there shall be sent to the Registrar a list of members of the trade union and a statement showing to which federation of trade unions, if any, that trade union is affiliated, and all changes of officers made by the trade union during the year to which the general statement refers, together also with a copy of the rules of the trade union corrected up to the date of the despatch thereof to the Registrar.

(3) A copy of every alteration made in the rules of a registered trade union shall be sent to the Registrar within fifteen days of the making of the alteration.

(4) Where a registered trade union changes its affiliation from one federation of trade unions to another, it shall, within fifteen days of making such change, furnish that information to the Registrar.

(5) Every registered trade union shall submit to the Registrar, at the prescribed time and in the prescribed manner, such other returns or information in relation to that trade union as may be prescribed.

#### CHAPTER IV

##### RECOGNITION OF TRADE UNIONS

**31. Constitution, powers and procedure of Labour Courts.**—(1) The appropriate Government may constitute as many Labour Courts, as it considers necessary, for the purpose of recognising trade unions and discharging such other functions as may be assigned to them by or under this Act and where Labour Courts have been constituted under the Labour Relations Act, 1950, such Courts may be vested with all the powers of Labour Courts under this Act.

(2) A Labour Court shall be presided over by a person, appointed by the appropriate Government, who—

(a) is, or has been, a member of the judicial service in a State, or

(b) is, or has been, a member of an executive service in a State having not less than two years' experience in dealing with matters regulating the relationship between employers and employees, or

(c) is qualified for appointment as a member of judicial service:

Provided that the maximum age limit, if any, applicable to the appointment of a member of such service shall not apply to any appointment under this section:

Provided further that no appointment under this section shall be made except with the approval of the High Court of the State in which the Labour Court has, or is intended to have, its usual seat.

(3) A Labour Court shall have all the powers of a civil court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and requiring the discovery and production of documents, and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(4) The proceedings of Labour Courts shall be regulated and conducted in such manner as may be prescribed.

**32. Recognition by agreement.**—(1) Subject to the provisions of this section, an employer may recognise one or more registered trade unions.

(2) Where an employer agrees to recognise a registered trade union, a memorandum of agreement signed by the employer and the officers of the trade union, or their authorised representatives, may be presented to the Registrar who shall record the memorandum in a register in the prescribed manner.

(3) Such an agreement may be revoked by either party thereto on application made to the Registrar in the prescribed manner.

(4) While such an agreement is in force, the trade union shall, in its relations with the employer with whom the agreement is made, have all the rights of a recognised trade union under this Act, and shall for all other purposes be deemed to be a recognised trade union.

(5) A trade union consisting of civil servants shall not be recognised by the appropriate Government, if it does not consist wholly of civil servants or if such trade union is affiliated to a federation of trade unions to which a trade union consisting of members other than civil servants is affiliated.

(6) A trade union shall not be recognised by an employer in relation to any hospital or educational institution if it does not consist wholly of employees of any hospital or educational institution, as the case may be.

(7) A trade union consisting partly of supervisors and partly of other employees, or partly of the watch and ward staff and partly of other employees, shall not be recognised by an employer.

**33. Conditions for recognition by order of a Labour Court.**—(1) Subject to the provisions of this section and sub-sections (5), (6) and (7) of section 32, a trade union shall be entitled to recognition by order of a Labour Court under section 34 if it fulfils the following conditions, namely:—

(a) that it is a registered trade union, and that it has complied with all the provisions of this Act;

(b) that all its ordinary members are employees in the same establishment or class of establishments;

(c) that it is representative of all the employees or any particular class of employees employed by the employer in that establishment or class of establishments;

\* \* \* \* \*

(d) that its rules provide for the procedure for declaring a strike and in particular, provision is made that no strike shall be declared until the majority of the members of the trade union have, by secret ballot held in such manner as may be prescribed, decided in favour of such a strike;

(e) that its rules provide that a meeting of its executive shall be held at least once in every three months:

Provided that the reference in clause (c) to the employer shall, as respects recognition by an association of employers, be construed as a reference to all the employers who are members of the association:

Provided further that the provisions of clause (d) shall not apply to a trade union consisting wholly of civil servants.

\* \* \* \* \*

(2) Where application for recognition is made under section 34 by more than one registered trade union, the trade union having the largest membership shall have preference to other trade unions.

**34. Application to, and grant of recognition by, Labour Courts.**—(1) Where a registered trade union having applied for recognition to an employer has failed to obtain recognition within a period of three months from the date of making such application, it may apply in writing, setting out such particulars as may be prescribed, to the Labour Court for recognition by that employer.

(2) A single application may be made under sub-section (1) for recognition—

(a) by more than one employer, or

(b) by an association of employers as well as one or more members thereof.

(3) The Labour Court may call for further information for the purpose of ascertaining whether the trade union is entitled to recognition by the employer under this section, and if the trade union fails to supply the required information within the time granted, the Labour Court may dismiss the application.

(4) The Labour Court shall, after serving notice in the prescribed manner on the employer, investigate whether the trade union fulfils the conditions for recognition set out in section 33 and sub-sections (5), (6) and (7) of section 32, and in deciding whether the trade union is a representative one under clause (c) of sub-section (1) of section 33, the Labour Court shall have regard to the rules that may be made in this behalf to determine the representative character of a trade union either generally or in respect of any particular establishment or class of establishments.

(5) If the Labour Court is satisfied that the trade union is fit to be recognised by the employer, it shall make an order directing such recognition and may, where the recognition is to be by an association of employers, further direct, by the same or a subsequent order, recognition by every member of the association in relation to whom the trade union fulfils the condition set out in clause (c) of sub-section (1) of section 33.

(6) Every order made under sub-section (5) shall be forwarded to the appropriate Government which shall notify it in the Official Gazette, and while a recognition directed by such order is in force, the trade union shall, in its relations with the employer concerned, have all the rights of a recognised trade union under this Act and shall for all other purposes be deemed to be a recognised trade union.

**35. Rights of recognised trade unions.**—(1) The executive of a recognised trade union or its authorised representatives are entitled to negotiate with employers in respect of matters connected with the employment or non-employment or the terms of employment or the conditions of labour of all or any of its members, and the employer shall receive and send replies to letters sent by the executive on, and grant interviews to that body regarding, such matters.

(2) Nothing in sub-section (1) shall be construed as requiring an employer to send replies to letters on, or grant interviews regarding, matters on which, as a result of previous discussion with the executive of the trade union, the employer has arrived at a conclusion, whether in agreement with the executive or



not, unless a period of at least three months in the case of an agreed conclusion or of one month in any other case has elapsed, since the said conclusion was intimated to the executive, or unless there has been a change in the circumstances.

(3) Any dispute between the employer and the executive of a recognised trade union as to whether a conclusion has been arrived at, or whether there has been a change in the circumstances, within the meaning of sub-section (2), may be referred to the Registrar whose decision shall be final.

(4) The executive of a recognised trade union or such officers thereof as may be authorised by rules made in this behalf by the appropriate Government shall, in such manner and subject to such conditions as may be prescribed, have a right, and shall be permitted by the employer concerned—

(a) to collect sums payable by members to the trade union on the premises where wages are paid to them;

(b) to put up, or cause to be put up, a notice board on the premises of the establishments in which its members are employed and affix or cause to be affixed, notices thereon;

(c) for the purpose of the prevention or settlement of any labour dispute,—

(i) to hold discussions on the premises of the establishment with the employees concerned who are members of the trade union;

(ii) to inspect, if necessary, in any establishment any place where any member of the trade union is employed.

**36. Withdrawal of recognition.**—(1) Where the recognition of a trade union has been directed under section 34, the Registrar or the employer may apply in writing to the Labour Court for withdrawal of the recognition on any of the following grounds, namely:—

(a) that the executive or a majority of the members of the trade union have committed any unfair practice set out in section 40 within three months prior to the date of the application;

(b) that the trade union has failed to submit any return referred to in section 38;

(c) that the trade union has ceased to be representative of the employees referred to in clause (c) of sub-section (1) of section 33;

(d) that the certificate of registration of the trade union has been suspended or cancelled by the Registrar under section 10.

(2) On receipt of an application under sub-section (1), the Labour Court shall, unless it thinks fit to dismiss the application summarily, serve notice in the prescribed manner on the trade union to show cause why its recognition should not be withdrawn.

(3) If after giving a reasonable opportunity to the trade union to show cause, the Labour Court is satisfied that the trade union is no longer fit to be recognised, it shall make an order declaring that the recognition of the trade union has been withdrawn, and forward a copy of the order to the appropriate Government who shall notify it in the Official Gazette.

**37. Application for fresh recognition.**—On the expiry of not less than three months from the date of withdrawal of recognition of a trade union under sub-section (3) of section 36, the trade union may again apply for recognition, and the procedure laid down in this Act shall apply in respect of such application as if it were an original application for recognition.

**38. Recognised trade unions to submit prescribed returns.**—Every trade union recognised under section 34, shall submit to the Registrar at the prescribed time and in the prescribed manner such returns, in addition to those referred to in section 80, as may be prescribed.

## CHAPTER V

### UNFAIR PRACTICES

**39. Application of Chapter.**—The provisions of this Chapter shall not apply to a recognised trade union of civil servants.

**40. Unfair practices by recognised trade unions.**—The following shall be deemed to be unfair practices on the part of a recognised trade union, namely:—

(a) for a majority of the members of the trade union to take part in an irregular strike;

(b) for the executive of the trade union to advise or actively to support or to instigate an irregular strike;

(c) for an officer of the trade union to submit any return required by or under this Act containing false statements as to any material fact;

(d) for the executive of the trade union to refuse to enter into negotiations with the employer as provided for in section 35 or in Chapter IV of the Labour Relations Act, 1950, or, if the trade union is a certified bargaining agent, as defined in the Labour Relations Act, 1950, to refuse to bargain collectively with the employer as provided for in Chapter V of that Act.

**41. Unfair practices by employers.**—The following shall be deemed to be unfair practices on the part of an employer, namely:—

(a) to interfere with, restrain, or coerce his employees in the exercise of their rights to organise, form, join or assist a trade union and to engage in concerted activities for the purpose of mutual aid or protection;

(b) to interfere with the formation or administration of any trade union;

(c) to discharge or otherwise discriminate against, any officer of a recognised trade union because of his being such officer;

(d) to discharge or otherwise discriminate against any employee because he has made allegations or given evidence in any inquiry or proceeding relating to any matter such as is referred to in sub-section (1) of section 35:

Provided that nothing in this clause shall apply to any such discharge or discrimination if the employer can prove that the allegation made or the evidence given by the employee was false, or that the employee knew or had reason to believe such allegation or evidence to be false;

(e) to fail to comply with the provisions of section 35;

(f) to declare an illegal lock-out;

(g) to refuse to enter into negotiations with his employees as provided for in section 35 or in Chapter IV of the Labour Relations Act, 1950, or, where there is a certified bargaining agent, to refuse to bargain collectively with such agent as provided for in Chapter V of that Act:

Provided that the refusal of an employer to permit his employees to engage in trade union activities during their hours of work shall not be deemed to be an unfair practice on his part.

## CHAPTER VI

## PENALTIES

**42. Penalty for failure to submit returns.**—If default is made on the part of any registered or recognised trade union in giving any notice or sending any statement, return or other document as required by or under any provision of this Act, every officer or other person bound by the rules of the trade union to give or send the same, or, if there is no such officer or person, every member of the executive of the trade union, shall be punishable with fine which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues:

Provided that the aggregate fine shall not exceed fifty rupees.

**43. Penalty for false returns.**—Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 30, or in or from any copy of rules or alterations of rules sent to the Registrar under that section or in or from any return referred to in section 38 shall be punishable with fine which may extend to five hundred rupees.

**44. Penalty for supplying false information regarding trade unions.**—Any person who with intent to deceive, gives to any member of a registered trade union or to any person intending or applying to become a member of such trade union any document purporting to be a copy of the rules of the trade union or of any alterations to the same which he knows, or has reason to believe to be not a correct copy of such rules or alterations as are for the time being in force, or any person who with the like intent gives a copy of any rules of an unregistered trade union to any person on the pretence that such rules are the rules of a registered trade union, shall be punishable with fine which may extend to two hundred rupees.

**45. Penalty for unfair practices.**—Any employer who commits any unfair practice set out in section 41 shall, on conviction, be punishable with fine which may extend to one thousand rupees, and shall, on any subsequent conviction, be punishable with fine which may extend to three thousand rupees, and the court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has suffered loss or injury caused by such unfair practice.

## CHAPTER VII

## MISCELLANEOUS

**46. Power of the Labour Court in election petitions.**—(1) Where an election of the members of the executive or other officers of a trade union is held in contravention of the prescribed regulations or the rules of that trade union, the Registrar or any member of that trade union may file an application to the Labour Court for setting aside such election on the ground that there has been a contravention of such regulations or rules or that there has been an irregularity in, or in connection with, that election.

(2) The Labour Court shall, after giving all the parties interested in the application filed under sub-section (1) an opportunity of being heard, pass such orders as it may deem fit.

(3) Without prejudice to the generality of the foregoing power, the Labour Court may, if it finds that there has been a contravention of the prescribed

regulations or the rules of the trade union or that an irregularity has occurred, pass an order setting aside an election and—

(a) directing that a fresh election be held in accordance with the prescribed regulations and the rules of the trade union, or

(b) directing another person to have been duly elected.

(4) The Labour Court shall not pass any order under sub-section (3) unless it is satisfied that, having regard to the contravention made, or the irregularities found and the other circumstances of the case, the result of the election has been affected by such contravention or irregularities.

**47. Cognizance of offences.**—(1) No court shall take cognizance of any offence punishable under this Act save on complaint made by or under the authority of the Inspector or, in the case of an offence under section 44, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

**48. Power to give directions.**—The Central Government may give directions to a State Government as to the carrying into execution of the provisions of this Act.

**49. Act not to apply to Armed Forces, etc.**—Nothing in this Act shall apply to the members of the Armed Forces or the police forces.

**50. Power to make regulations.**—(1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make regulations for the purpose of carrying into effect the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the manner in which trade unions may be registered and the fees payable on registration;

(b) the holding of election of members of the executive or other officers of the trade union and the manner in which petitions for setting aside elections may be made and disposed of; \* \* \*

(c) admission of persons who, without being ordinary members, are entitled to be officers of a trade union;

(d) the transfer of registration in the case of any registered trade union which has changed its head office from one State to another;

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

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

(g) any other matter which has to be, or may be, prescribed.

**51. Power to make rules.**—(1) A State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules, not inconsistent with this Act and the regulations made thereunder, for the purpose of carrying into effect the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters specified in sub-section (2) of section 50.

(3) If any rule made under this section is repugnant to any regulation made under section 50, the regulation, whether made before or after the making of the rule, shall prevail and the rule to the extent of the repugnancy be inoperative.

**52. Repeals and savings.**—(1) The Indian Trade Unions Act, 1926 (XVI of 1926), and the Indian Trade Unions (Amendment) Act, 1947 (XLV of 1947), which has not come into force, are hereby repealed.

(2) It, immediately before the commencement of this Act, there is in force in any of the Part B States any law corresponding to the Indian Trade Unions Act, 1926, such corresponding law is hereby repealed:

Provided that section 6 of the General Clauses Act, 1897 (X of 1897), shall apply to such repeal as if the corresponding law had been an enactment.

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# PARLIAMENT OF INDIA

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Report of the Select Committee on the Bill to provide for the registration and recognition of trade unions and in certain respects to define the law relating to registered and recognised trade unions and to certain unfair practices by employers and recognised trade unions.

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*(As amended by the Select Committee)*