

T A S M A N I A.



1889.

ANNO QUINQUAGESIMO-TERTIO

VICTORIÆ REGINÆ,

No. 27.

*Suppl. Act  
34 & 35 Vic c 31*

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AN ACT to legalise Trades Unions in A.D. 1889.  
*Tasmania.* [9 November, 1889.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act may be cited as “The Trades Unions Act, 1889.” Short title.

2 The term “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 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.

“Minister” shall mean the Responsible Minister of the Crown for the time being administering this Act. Minister.

The Registrar for the time being appointed under “The Friendly Societies Act, 1888,” shall be the Registrar under this Act. Registrar.  
34 & 35 Vict.  
c. 31, s. 17.

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Trade Union not  
unlawful for civil  
purposes.  
34 & 35 Vict.  
c. 31, s. 3.Trade Union not  
criminal.  
*Ib.* s. 2.Trade Union  
contracts when  
not enforceable.  
*Ib.*, s. 4.

**3**—(1.) The purposes of any 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.

(2.) The purposes of any 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 Trades Unions liable to criminal prosecution for conspiracy.

**4** Nothing in this Act 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) :—

1. 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 :
2. Any agreement for the payment by any person of any subscription or penalty to a Trade Union :
3. Any agreement for the application of the funds of a Trade Union—
  - (a.) To provide benefits to members ; or
  - (b.) 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
  - (c.) To discharge any fine imposed upon any person by sentence of a Court of Justice ; or
4. Any agreement made between one Trade Union and another ; or
5. Any bond to secure the performance of any of the above-mentioned agreements.

But nothing in this Section shall be deemed to constitute any of the above-mentioned agreements unlawful.

Acts not applying  
to Trade Unions.  
51 Vict. No. 16.  
33 Vict. No. 22

**5** The following Acts (that is to say) :

1. "The Friendly Societies Act, 1888," and
2. *The Companies Act*, 1869,

shall not apply to any Trade Union, and the registration of any Trade Union under any of the said Acts shall be void, and the deposit of the Rules of any Trade Union made under "The Friendly Societies Act, 1888," before the passing of this Act shall cease to be of any effect: Provided, however, that any Trade Union, whether registered or unregistered, 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 Twenty-six of "The Friendly Societies Act, 1888."

34 & 35 Vict.  
c. 31, s. 5.39 & 40 Vict.  
c. 22, s. 3.Registry of Trade  
Unions.  
34 & 35 Vict.  
c. 31, s. 6.

**6** Any Seven or more members of a Trade Union may, by subscribing their names to the Rules of the Union and otherwise complying with the provisions of this Act with respect to registry, register such Trade Union under this Act: Provided that if any one of the purposes of such Trade Union be unlawful such registration shall be void.

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**7** Any Trade Union registered under this Act may, or any Two or more Trade Unions may jointly, for the purposes of the Union or Unions purchase or take upon lease, in the names of the Trustees for the time being of such Union or Unions, any land or buildings for the purpose of carrying on its or their affairs, and may sell, exchange, mortgage, or let the same; and no purchaser, assignee, mortgagee, or tenant shall be bound to enquire whether the Trustees have authority for any sale, exchange, mortgage, or letting, and the receipt of the Trustees shall be a discharge for the money arising therefrom; and for the purpose of this Section every Branch of a Trade Union shall be considered a distinct Union. Notwithstanding anything hereinbefore contained, it shall not be lawful for any Branch of a Trade Union to expend any of its funds in the purchase of lands or erection of any buildings without first obtaining the consent of the parent Society: Provided always, that no portion of any funds so expended on the purchase of any lands or buildings or on the erection of any buildings shall consist of subscriptions by members of any Trade Union to the sick or benefit funds of such Trade Union.

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Buildings for Trade Unions may be purchased or leased.  
34 & 35 Vict.  
c. 31, s. 7.

**8** All real and personal estate whatsoever belonging to any Trade Union registered under this Act shall be vested in the Trustees for the time being of the Trade Union appointed as provided by this Act for the use and benefit of such Trade Union and the members thereof, and the real or personal estate of any Branch of a Trade Union shall be vested in the Trustees of such Branch, or of the Trustees of the Trade Union if the Rules of the Trade Union so provide, and be under the control of such Trustees, their respective executors or administrators, according to their respective claims and interests; and upon the death, resignation, or removal of any such Trustees the same shall vest in the succeeding Trustees for the same estate and interest as the former Trustees had therein, and subject to the same trusts, without any conveyance or assignment or transfer; and in case any such property be under *The Real Property Act*, the Trustees or Trustee in whom the same is vested under the provisions of this Act shall be deemed the proprietors or the proprietor thereof within the meaning of *The Real Property Act* as if the names or name of such Trustees or Trustee appeared or were entered as such proprietors or proprietor in the Register Book; and in all actions or suits, presentments or indictments, or summary proceedings before any Court of summary jurisdiction touching or concerning any such property, the same shall be stated to be the property of the person or persons for the time being holding the said office of Trustee in their proper names as Trustees of such Trade Union without any further description.

Property of the Trade Union vested in Trustees.  
*Ib.*, s. 8.39 & 40 Vict.  
c. 22, s. 3.34 & 35 Vict.  
c. 31, s. 8.

25 Vict. No. 16.

**9** The Trustees of any Trade Union registered under this Act, or any other officer of such Trade Union who may be authorized 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 of law or equity touching or concerning the property, right, or claim to property of the Trade Union, and shall and may, in all cases concerning the real or personal property of such Trade Union, sue and be sued, plead and be impleaded in any Court of law or equity in their proper names without other description than the title of their office; and no such action, suit, prosecution, or complaint shall be discontinued or shall abate by the death or removal from office of such persons or any of them, but the same shall and may be proceeded in by their successor

Actions, &c. by or against Trustees, &c.  
34 & 35 Vict.  
c. 31, s. 9.

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or successors as if such death, resignation, or removal had not taken place, and such 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; and the summons to be issued to such Trustee or other officer may be served by leaving the same at the registered office of the Trade Union.

Limitation of  
responsibility of  
Trustees.  
34 & 35 Vict.  
c. 31, s. 10.

**10** A Trustee of any Trade Union registered under this Act 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.

Treasurers, &c. to  
account.  
*Ib.*, s. 11.

**11** Every Treasurer or other officer of a Trade Union registered under this Act, at such times as by the Rules of such Trade Union he should render such account as hereinafter mentioned, 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 Trade Union, 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 bonds and securities 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; and such Treasurer, if thereunto required, upon the said account being audited shall forthwith hand over to the said Trustees the balance which on such audit appears to be due from him, and shall also, if required, hand over to such Trustees all securities and effects, books, papers, and property of the said Trade Union in his hands or custody; and if he fail to do so the Trustees of the said Trade Union may sue such Treasurer in any competent Court for the balance appearing to have been due from him upon the account last rendered by him, and for all the moneys since received by him on account of the said Trade Union, and for the securities and effects, books, papers, and 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 attorney and client.

Punishment for  
withholding  
money, &c.  
*Ib.*, s. 12.

**12** If any officer, member, or other person being or representing himself to be a member of a Trade Union registered under this Act, or the nominee, executor, administrator, or assignee of a member thereof, or any person whatsoever, by false representation or imposition obtain possession of any moneys, securities, books, papers, or other effects of such Trade Union, or, having the same in his possession, wilfully withhold or fraudulently misapply the same, or wilfully apply any part of the same to purposes other than those expressed or directed in the Rules of such Trade Union or any part thereof, any Two Justices, upon a complaint made by any person on behalf of such Trade Union or by the Registrar, may make an Order requiring such officer, member, or other person to deliver up all such moneys, securities, books, papers, or other effects to the Trade Union, or to repay the amount of money applied improperly, and to pay, if such Justices think fit, a further sum of money not exceeding Twenty Pounds, together with costs not exceeding Twenty Shillings; and in default of such delivery of effects or repayment of such amount of money, or payment of such penalty and costs aforesaid, such Justices may order the said person so convicted to be

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imprisoned with or without hard labour for any term not exceeding Three months : Provided that nothing herein contained shall prevent proceedings by presentment or indictment being taken against the said party : Provided also that no person shall be proceeded against by presentment or indictment if a conviction have been previously obtained for the same offence under the provisions of this Act. A.D. 1889.

**13** A person under the age of Twenty-one but above the age of Eighteen may be a member of a Trade Union, unless provision be made in the Rules thereof to the contrary ; and may, subject to the Rules of the Trade Union, enjoy all the rights of a member, except as herein provided, 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 a Trade Union. Membership of minors.  
39 & 40 Vict.  
c. 22, s. 9.

**14** A member of a Trade Union, not being under the age of Eighteen years, may, by writing under his hand delivered at or sent to the registered office of the Trade Union, nominate any person, not being an officer or servant of the Trade Union (unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew, or niece of the nominator) to whom any moneys payable on the death of such member, not exceeding 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 delivered or sent ; 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. Nomination.  
*Ib.*, s. 10.

**15** With respect to the registration under this Act of a Trade Union and of the Rules thereof, the following provisions shall have effect :— Regulations for registration.  
34 & 35 Vict.  
c. 31, s. 13.

1. An application to register the Trade Union, and printed copies of the Rules, together with a list of the titles and names of the officers, shall be sent to the Registrar under this Act :
2. The Registrar, upon being satisfied that the Trade Union has complied with the Regulations respecting registration in force under this Act, shall register such Trade Union and such Rules :
3. No Trade Union shall be registered under a name identical with that by which any other existing Trade Union has been registered, or so nearly resembling such name as to be likely 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 before the registration 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 Government Statistician ; and upon registering such Trade Union the Registrar shall transmit such general statement to the Government Statistician :
5. The Registrar upon registering such Trade Union shall issue a Certificate of Registration, which Certificate, unless proved to have been withdrawn or cancelled, shall be conclusive

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evidence that the Regulations of this Act with respect to registration have been complied with :

6. The Governor in Council may from time to time make Regulations respecting registration under this Act, and respecting the seal (if any) to be used for the purpose of such registration, and the forms to be used for such registration, and the inspection of documents kept by the Registrar, and respecting the fees (if any) to be paid on registration, not exceeding the fees specified in the Schedule (1.) to this Act, and generally for carrying this Act into effect.

Rules of registered Trade Union.  
34 & 35 Vict.  
c. 31, s. 14.  
Schedule (2.)

**16** With respect to the Rules of a Trade Union registered under this Act, the following provisions shall have effect :—

1. The Rules of every such Trade Union shall contain provisions in respect of the several matters mentioned in the Second Schedule to this Act :
2. A copy of the Rules and the names and addresses of the Trustees for the time being shall be delivered by the Trade Union to every person on demand, on payment of a sum not exceeding One Shilling.

Registered office of Trade Union.  
*Ib.*, s. 15.

**17** Every Trade Union registered under this Act shall have a registered office, to which all communications and notices may be addressed. If any Trade Union under this Act is in operation for Seven days without having 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 Act.

Change of name.  
39 & 40 Vict.  
c. 22, s. 11.

**18** A Trade Union may, with the approval in writing of the Registrar, change its name by the consent of not less than two-thirds of the total number of members.

No change of name 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, who may sue or be sued on behalf of such Trade Union notwithstanding its new name.

Amalgamation.  
*Ib.*, s. 12.

**19** Any two or more Trade Unions may, by the consent of not less than two-thirds 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 either or any Union party thereto.

Registration of change of name and amalgamation.  
*Ib.*, s. 13.

**20** 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 statutory declaration by such secretary that the provisions of this Act in respect of changes of name have been complied with, and in the case of an amalgamation signed by seven members and countersigned by the secretary of each or every union party thereto and

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accompanied by a statutory 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; and the Registrar shall thereupon issue to such secretary or secretaries an acknowledgment of registry of such change of name or amalgamation; and such acknowledgment shall be conclusive evidence that the same is duly registered; and until such acknowledgment of registry of change of name or amalgamation has been issued to and received by such secretary or secretaries such change of name or amalgamation shall not take effect.

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**21** No Trade Union shall be registered under this Act unless the Rules of such Trade Union contain:—

No Union to be registered without provision being made for dissolution.

Provisions as to the manner in which the same may be dissolved: Provisions that whenever the certificate of registration is withdrawn or cancelled by the Registrar the real and personal property to which such Trade Union is beneficially entitled shall be applied— first, to the payment of all just debts and liabilities of such Trade Union due and owing to persons other than persons being members thereof; secondly, to the payment of all just claims of members and persons claiming any relief or other benefit from such Trade Union; and thereafter to some other purpose which such Rules shall specify.

**22** A general statement of the receipts, funds, effects, and expenditure of every Trade Union registered under this Act shall be transmitted to the Government Statistician before the first day of *February* in every year, and shall show fully the assets and liabilities at the date and the receipts and expenditure during the year ending on the thirty-first day of *December* then last past, and 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 Government Statistician may from time to time require; and every member of and depositor in any 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 making any payment for the same.

Annual Returns to be prepared as Government Statistician may direct. 34 & 35 Vict. c. 31, s. 16.

In every year before the first day of *February* a statement of the changes of officers and a copy of all alterations of Rules and new Rules made by every Trade Union during the year ending on the Thirty-first day of *December* then last past, and a copy of the Rules of every Trade Union as they exist at that date, shall be transmitted to the Registrar.

Alterations of Rules to be notified.

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, shall each be liable to a penalty not exceeding Five Pounds for each offence.

Penalty for breach of provisions of this Section.

Every person who wilfully makes, or orders to be made, any false entry in or any omission from any such general statement, or in or from the return of such copies of Rules or alterations of Rules, shall be liable to a penalty not exceeding Fifty Pounds for each offence.

Penalty for falsifying statement.

**23** The Registrar and Government Statistician respectively shall send once in every year to the Minister a report with respect to the matters transacted by him in pursuance of this Act during the foregoing year, in such form as the Minister shall from time to time require, and every

Registrar and Government Statistician to make Annual Reports. Report

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to be laid before  
Parliament.  
34 & 35 Vict.  
c. 31, s. 17.

Circulating false  
copies of Rules,  
&c. a Misdemeanor.  
34 & 35 Vict.  
c. 31, s. 18.

such report shall on the receipt thereof be laid before the Legislative Council and the House of Assembly if Parliament be sitting, but, if not, then within One month after the commencement of the next Session of Parliament.

**24** 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 the same, other than those respectively which exist for the time being, on the pretence that the same are the existing 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.

Penalty for failure  
to give notice.  
39 & 40 Vict.  
c. 22, s. 15.

**25** A Trade Union which fails to give any notice or send any document which it is required by this Act to give or send, and every officer or other person bound by the Rules thereof to give or send the same, or if there be no such officer 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.

Withdrawal or  
cancelling of  
certificate.  
*Ib.*, s. 8.

**26** No Certificate of Registration of a Trade Union shall be withdrawn or cancelled otherwise than by the Registrar, and in the following cases only :—

1. At the request of the Trade Union, to be evidenced in such manner as the Registrar shall from time to time direct;
2. 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 has become void as hereinbefore provided, or that such Trade Union has wilfully (and after notice from the Registrar) violated any of the provisions of this Act, or has ceased to exist.

Not less than Two months' previous notice in writing specifying briefly the ground of any proposed withdrawal or cancelling of Certificate (unless the same is shown 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 the Registrar to the Trade Union before the Certificate of Registration of the same can be withdrawn or cancelled (except at its request). 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 as such 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.

Notwithstanding such withdrawal or cancelling, all real and personal estate vested in Trustees for the use and benefit of such Trade Union, and the Members thereof, shall from the time of such withdrawal or cancelling be, and be deemed to be, held by the said Trustees to the



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use and for the purposes specified in the Rules of such Trade Union in that behalf made and provided as in this Act directed. A.D. 1889.

**27** No Justice who is an employer, or father, son, or brother of an employer, in the particular manufacture, trade, or business in or in connection with which any offence under this Act is charged to have been committed, shall act as a Member of a Court of General or Petty Sessions during the hearing of a charge or proceedings relating to or in connection with such offence. Interested person not to act as a member of a Court of Appeal. 34 & 35 Vict. c. 31, s. 21.

All fines, penalties, and forfeitures under this Act may be recovered in a summary way before any Two Justices. Recovery of penalties.

**SCHEDULE.****(1.)****MAXIMUM FEES.**

	£	s.	d.
For registering Trade Union .....	1	0	0
For registering alterations in Rules.....	0	10	0
For inspection of documents .....	0	1	0

34 & 35 Vict.  
c. 31, schd.  
Section 15.

**(2.)**

**OF MATTERS TO BE PROVIDED FOR BY THE RULES OF TRADE UNIONS REGISTERED UNDER THIS ACT.** 34 & 35 Vict. c. 31, schd.

1. The name of the Trade Union and place of meeting for the business of the Trade Union. See 18 & 19 Vict. c. 63, s. 25.
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, and the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member of such Trade Union. Section 16.
3. The manner of making, altering, amending, and rescinding Rules.
4. A provision for the appointment and removal of a General Committee of Management, of a Trustee or Trustees, Treasurer, and other officers.
5. A provision for the investment of the funds, and for an annual or periodical audit of accounts.
6. 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.

