



Rights, Obligations and Duties

This leaflet aims at providing information of the statutory rights and duties of trade unions, trade union members and officers provided by the Trade Unions Ordinance and other relevant legislation, as well as the rights and obligations of members and officers under their trade union rules. Irrespective of any attempts hereby made in illustrating the provisions in the law, the relevant Ordinances themselves remain the sole authority for the provisions of the law explained.

The Right to Organize a Trade Union

- Article 27 of the Basic Law guarantees that Hong Kong residents have the freedom of association; and the right and freedom to form and join trade unions.
- The Employment Ordinance (EO) provides that every employee has the rights to be a member or an officer of a trade union registered under the Trade Unions Ordinance (TUO), and to associate with other persons for the purpose of forming or applying for the registration of a trade union. Trade union members or officers have the right to take part in activities of the trade union outside working hours or if with the consent of the employer, during working hours.
- Moreover, the EO also provides that an employer shall not prevent or deter an employee from exercising any of the above rights; or dismiss, penalize or discriminate against an employee for exercising the above rights. An employer shall not make it a condition of employment that an employee must not exercise the above rights.

Statutory Rights of Trade Unions

- **Protection from criminal prosecution / civil suits**
Although the purposes of a trade union registered under the TUO may be involved in restraint of trade, such purposes alone would not render any agreement or trust void, or give rise to a charge of criminal

conspiracy on trade union members. Moreover, a trade union, its members and officers also enjoy immunity from civil suits for certain acts done in contemplation or furtherance of a trade dispute. It is lawful for trade union members, in contemplation or furtherance of a trade dispute, to attend a picket line in a peaceful and lawful manner.

- **Body Corporate**

According to the TUO, a registered trade union is a body corporate, with perpetual succession and with power to hold property movable or immovable and to enter into contracts and to institute legal proceedings.

Statutory Rights of Trade Union Members

- Apart from the abovementioned stipulations, members of a registered trade union have the following rights under the TUO:
- **Inspection of union documents**
Trade union members or their authorized agents have the right to inspect the account books and membership register of the union at such times and in such place as specified in the union rules. They may also apply to the Registrar of Trade Unions in writing for inspection free of charge of any documents required by law to be filed with the Registrar that are related to the union, such as annual statements of accounts, registered union rules and lists of union officers.
- **Other Statutory Rights**
Trade union members can take legal action against any officer of the union concerned for wilfully withholding or misapplying union funds or property, and apply to the Court for an injunction restraining the union officer from holding office or controlling trade union funds. Besides, trade union members may appeal to the Court of First Instance of the High Court against the Registrar of Trade Unions on such decisions as refusal to register a change of union name or refusal to register amendments to union rules, etc.

Rights of Trade Union Members Provided by Union Rules

- Registered trade unions are required to draw up union rules. The TUO requires the union rules to cover all matters specified in Schedule 2 of the Ordinance for the purpose of protecting the rights and benefits of union members. The rules of the union commonly confer upon members the following rights:
 - To attend General Meetings of Members, and to move and vote on motions and elect officers in accordance with union rules;
 - To stand for elections to the Executive Committee in accordance with union rules and provisions of the TUO;
 - To request the Executive Committee to convene Extraordinary General Meetings of Members, or to appeal to the General Meetings on decisions of the Executive Committee;
 - To request for a copy of union rules;
 - To enjoy benefits provided by the union;
 - Subject to the stipulations in the union rules and the resolutions passed in the general meeting, to share union assets and funds in accordance with union rules in the event of the dissolution of the union.

Duties and Responsibilities of Trade Union Members

- Trade union members have the duties and responsibilities to observe union rules and pay membership subscriptions and contributions on time. Besides, members shall inform the Executive Committee of any changes in their personal particulars. They should actively participate in union activities and express views on issues of concern. They may also take part in the management of the union by assuming union office as appropriate.

Statutory Rights of Trade Union Officers

- Section 17 of the TUO provides that any person who has been engaged or employed in a trade, industry or occupation with which the trade union is directly concerned may become a union officer. Any person who has not been engaged or employed in a trade, industry or occupation the trade union concerned can also be a union officer with the written consent of the Registrar of Trade Unions.
- Apart from the abovementioned stipulations, trade union officers also have the following rights:
 - Trade union officers or their authorized agents have the right to inspect the account books and membership register of the union at such times and in such place as specified in the union rules;
 - According to the Labour Tribunal Ordinance, a trade union officer, with the leave of the Tribunal and authorized in writing by a claimant or defendant to appear as his representative, will have a right of audience. According to the Minor Employment Claims Adjudication Board Ordinance, a trade union officer, with the leave of the Board and authorized in writing by a party to appear as his representative, will have a right of audience.

Duties and Responsibilities of Trade Union Officers

- Trade union officers are elected by members as their agents to handle the general administration of the union and they shall comply with the TUO and union rules in managing the union. They have a duty to carry out the instructions of the General Meetings and the Executive Committee, submit annual report and financial report of the union to members in the general meeting. Important issues shall be submitted to the General Meeting for discussion and voting by members.

- According to the TUO, where any offence against the TUO or any regulations made thereunder has been committed by the union, every officer of the trade union shall be guilty of the like offence unless he proves to the satisfaction of the court that the act constituting the offence took place without his knowledge or consent.
- Any person who in any form prescribed by the Registry of Trade Unions makes any false statement or furnishes any false information shall be guilty of an offence and shall be liable on summary conviction to a fine and imprisonment. Trade union officer makes false financial statement would also be liable for deception or other criminal offences.
- Trade union officers solicit or accept any advantage on account of his any act in relation to his Executive Committee office may amount to a breach of the Prevention of Bribery Ordinance.
- According to the TUO, any person by false representation or imposition, obtains possession of any documents, moneys and other effects of a trade union, or having the same in his possession, wilfully withholds or fraudulently misapplies the same, or wilfully applies any part of the same to purposes other than those directed in the union rules, the District Court may make an order requiring such person to deliver up to the trade union all such effects, or payment of penalty and legal costs. In default of delivery of such effects, or payment of penalty and legal costs, the Court may order an imprisonment.

Contact the Registry of Trade Unions

Address : 11/F, One Mong Kok Road Commercial Centre,
1 Mong Kok Road, Kowloon

Telephone : 3575 8500

Website : www.labour.gov.hk

E-mail : rtu@labour.gov.hk