

CHAPTER 96A

TRADE UNIONS (RECOGNITION)

Act No. 17 of 1976

AN ACT TO PROVIDE FOR THE RECOGNITION BY EMPLOYERS OF  
TRADE UNIONS AND FOR MATTERS INCIDENTAL THERETO  
[1st September, 1976]

PART I—PRELIMINARY

*Short title*

1. This Act may be cited as the Trade Unions (Recognition) Act.

*Interpretation*

2. In this Act, unless the context otherwise requires—  
“collective bargaining” means treating and negotiating with a view to the  
conclusion of a collective agreement or the revision or renewal thereof;  
“collective agreement” and “employer” respectively have the meanings  
assigned to them by the Trade Disputes Act; (Cap. 97.)  
“Permanent Secretary” means the Permanent Secretary for Labour;  
“trade union” has the meaning assigned to it by the Trade Unions Act;  
(Cap. 96.)  
“wages” has the meaning assigned to it by the Employment Act.  
(Cap. 92.)

PART II—RECOGNITION OF TRADE UNIONS

*Recognition of trade union without rival union*

3.—(1) Where there is a trade union of which more than fifty per cent of the persons eligible for membership thereof in the employment of an employer are voting members and there is no rival trade union claiming to represent these persons, that trade union shall for the purposes of collective bargaining be entitled to recognition by the employer in accordance with the provisions of a recognition agreement voluntarily executed by the employer and the trade union or, in default of any such agreement, in accordance with a compulsory recognition order made by the Permanent Secretary under the provisions of subsection (2).

(2) If a trade union claims to be entitled to recognition by an employer under the provisions of this section but the employer refuses recognition, the trade union may refer the question to the Permanent Secretary who, after taking into account all facts and circumstances appearing to him to be relevant, may, subject to the provisions of section 10, make an order, under this Part referred to as “a compulsory recognition order”—

(a) declaring that the trade union is entitled to recognition under this section; and

- (b) specifying the manner in which the employer shall accord recognition to the trade union.

*Determination of recognition*

4.—(1) A trade union if recognised by an employer under the provisions of section 3, shall continue to be entitled to such recognition until such time as the Permanent Secretary, on application by the employer, determines that there is another trade union claiming to represent some or all of the persons previously claimed to be represented by the trade union recognised under the provisions of section 3 and that therefore the provisions of section 3 should no longer apply.

(2) The trade union entitled to recognition under the provisions of section 3 shall cease to be so entitled with effect from the date of determination by the Permanent Secretary:

Provided that the provisions of this section shall be without prejudice to any civil or criminal proceedings arising out of any contravention of a voluntary recognition agreement or a compulsory recognition order which occurred before the date of determination by the Permanent Secretary.

*Recognition of trade union with rival union*

5.—(1) Where it is accepted by an employer, or decided by the Permanent Secretary under the provisions of section 8, that of the persons in the employment of that employer who are eligible for membership of rival trade unions, more than fifty per cent are voting members of a particular trade union, that trade union shall for the purposes of collective bargaining be entitled to recognition by the employer in accordance with the terms of a recognition agreement entered into voluntarily by the employer and the trade union or in default of such voluntary agreement in accordance with a compulsory recognition order made under the provisions of section 6.

(2) If in the circumstances described in subsection (1) a recognition agreement between the employer and the trade union is not executed within a period of one month from the date on which it is accepted by the employer, or decided by the Permanent Secretary under the provisions of section 8 that the trade union is entitled to recognition by virtue of this section, the trade union may apply to the Permanent Secretary for a compulsory recognition order under the provisions of section 6.

*Compulsory recognition order*

6. If, having received an application under the provisions of section 5 the Permanent Secretary—

- (a) is satisfied that the membership of the trade union is sufficient to entitle it to recognition; and  
(b) after taking into account all other facts and circumstances appearing to him to be relevant, is of the opinion that an order under this section should be made,

he may, subject to the provisions of section 10, make a compulsory recognition order specifying the manner in which the employer shall accord recognition to the trade union.

*Determination of recognition*

7. A trade union which has become entitled to recognition by an employer under the provisions of section 3 or section 5 shall continue to be so entitled until such time as the Permanent Secretary on an application by the employer, determines that over a period of six months ending not more than two months before the date of application, the average number of persons in his employment who were voting members of the recognised trade union was less than fifty per cent of the average number of persons who were eligible for membership thereof, in which case from the date of the Permanent Secretary so determining the trade union in question shall cease to be entitled to recognition:

Provided that the provisions of this section shall be without prejudice to any civil or criminal proceedings arising out of any contravention of a voluntary recognition agreement or a compulsory recognition order which occurred before the date of determination by the Permanent Secretary.

*Refusal by employer to grant recognition*

8. If a trade union claims to be entitled to recognition by an employer under the provisions of section 3 or section 5, but the employer refuses to recognise the trade union on the ground that less than fifty per cent of the persons in his employment who are eligible for membership of that trade union are voting members thereof, the trade union may refer the matter to the Permanent Secretary whose decision thereon shall be final.

*Refusal of Permanent Secretary to grant compulsory recognition order*

9. If, on an application under the provisions of either section 3 or section 5, the Permanent Secretary refuses to make a compulsory recognition order, the trade union shall be deemed not to be entitled to recognition by that employer for a period of six months from the date of such refusal.

*Exclusion from recognition*

10. Notwithstanding the other provisions of this Act, unless there is an agreement to the contrary between the employer and the trade union, the Permanent Secretary in making a compulsory recognition order under the provisions of section 3 or section 6 shall exclude from recognition under such order persons who are employed in a confidential capacity or who represent the employer in matters relating to industrial or staff relations.

*Offences*

11. Any employer who fails to comply with any of the provisions of a recognition agreement executed or a compulsory recognition order made under this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand dollars.

**PART III—RECOGNISED TRADE UNION DUES***Demand statement by recognised trade union*

12.—(1) A trade union entitled to recognition under the provisions of Part II may, by written demand submitted to the employer, require him to deduct from the wages of the persons who are members of that trade union such amounts towards their trade union dues as may be specified in the demand submitted by the trade union.

(2) Every written demand made under the provisions of subsection (1) shall give the following information:—

- (a) the full names of the persons for whom the deduction is sought;
- (b) the Fiji National Provident Fund number of each such person;
- (c) the amount of trade union dues to be deducted from each such person;
- (d) if appropriate, the name of the bank and the account into which the trade union dues are to be deposited; and
- (e) the written consent of each person separately, duly witnessed, authorising the employer to deduct the trade union dues specified.

*Method of deduction of trade union dues*

13.—(1) An employer required to make deductions from wages under the provisions of section 12 shall commence the deduction of the trade union dues from the second payment of wages following the date upon which the demand statement is received by the employer.

(2) The employer making any deduction from wages under the provisions of this Part shall deposit the entire amount so deducted in the bank account specified by the trade union in the demand statement or pay such amount direct to the trade union concerned within fourteen days from the end of the calendar month during which such deductions are made.

(3) The employer shall when making the deposit or payment in accordance with the provisions of subsection (2), notify the trade union in writing of the names of the persons on whose behalf the deductions were made, the amount deducted from the wages of each such person and the total amount so deposited or paid.

*Employer not entitled to fee, etc.*

14. An employer shall not be entitled to demand any fee, premium, commission or other payment under any of the provisions of this Part.

*Offence*

15. Any employer who fails to comply with any of the provisions of this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars.

PART IV—MISCELLANEOUS

*Regulations*

16. The Minister may make regulations for the better carrying out of the provisions of this Act.

*Controlled by Ministry for Labour, Industrial Relations and Immigration*