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Trade Unions Act

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17.12.2008	RT I 2009, 5, 35	01.07.2009
29.01.2009	RT I 2009, 13, 78	01.07.2009
29.10.2009	RT I 2009, 54, 363	01.01.2010
11.06.2014	RT I, 21.06.2014, 8	01.01.2015, partially 01.07.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
11.02.2015	RT I, 12.03.2015, 1	01.01.2016

Chapter 1 GENERAL PROVISIONS

§ 1. Purposes of Act

(1) This Act provides for the general rights of and bases for the activities of trade unions, and their relations with state and local government authorities and employers.

(2) This Act provides for the specifications for the foundation, activities and dissolution of trade unions which operate as non-profit associations.

§ 2. Definition and objectives of trade union

(1) A trade union is an independent and voluntary association of persons which is founded on the initiative of the persons and the objective of which is to represent and protect the employment, service-related, professional, economic and social rights and interests of employees.

(2) For the purposes of this Act, the term trade union is used for all associations which are in the form of trade unions and are provided for in this Act.

(3) For the purposes of this Act, an employee is any employed person, regardless of the nature of the work performed.

§ 3. Trade union as social dialogue partner

Trade unions achieve their objectives acting as social dialogue partners to employers, associations of employers, local governments and the Government of the Republic in mutual informing, consulting, and collective bargaining and in issues involving the interests of employees set out in subsection 2(1) of this Act.

§ 4. Freedom to join in trade unions

(1) Persons have the right to freely, without prior permission, found trade unions, join or not to join them. Active servicemen are prohibited from founding or joining a trade union.

[RT I, 12.03.2015, 1 - entry into force 01.01.2016]

(2) Trade unions have the right to form federations and confederations and to join them in order to represent the rights and interests of employees. Trade unions have the right to join international organisations of employees.

§ 5. Independence of trade unions

(1) In their legal activities, trade unions are independent of employers, their associations and their representatives, state authorities and local governments and other organisations.

(2) Trade unions have the right to independently organise their activities and management, including draw up their articles of association, prepare action plans and freely elect their representatives.

(3) Employers, their associations and representatives, state authorities and local governments are prohibited from dissolving trade unions, restricting or prohibiting the activities of trade unions, and intervening in the internal matters of trade unions.

(4) Termination of the activities of trade unions shall take place only voluntarily or by a court judgment.

Chapter 2

PASSIVE LEGAL CAPACITY, FOUNDATION AND MANAGEMENT OF TRADE UNIONS

§ 6. Passive legal capacity of trade union

(1) A trade union is a non-profit association if it is entered in the register of trade unions. The Non-profit Associations Act shall be applied to trade unions with the specifications arising from this Act.

[RT I, 21.06.2014, 8 - entry into force 01.01.2015]

(2) The passive legal capacity of a trade union commences as of the entry of the trade union into the register of trade unions (hereinafter *the register*) and terminates as of the deletion from the register.

[RT I, 21.06.2014, 8 - entry into force 01.01.2015]

(3) Transformation of a trade union into a non-profit association of a different class is not allowed.

§ 7. Foundation

(1) A trade union may be founded by at least five employees. A federation of trade unions may be founded by at least five trade unions. A confederation of trade unions may be founded by at least five nationwide trade unions or federations of trade unions of an area of activity or profession.

(2) A trade union shall be founded at a foundation meeting pursuant to subsections 9(2), (4) and (5) of this Act.

(3) The foundation of a trade union shall be executed by a memorandum of association which in addition to the requirements provided for in the Non-profit Associations Act shall set out:

- 1) the time and place of the meeting, voting results and the adopted resolution;
- 2) the names and residences of members of the management board, and also the personal identification codes or registry codes of the founders.

(4) The articles of association shall be approved by the memorandum of association. The memorandum of association and articles of association shall be signed by the chair and the secretary of the meeting. The list of participants in the foundation meeting with the signature of each participant shall be an integral part of the memorandum of association. If the founders are trade unions, the resolutions of founder bodies on foundation and the copies of the registry card shall be appended to the memorandum of association.

§ 8. Articles of association

(1) The articles of association shall be in writing. The articles of association shall set out:

- 1) the name and registered office of the trade union;
- 2) the objective of the trade union;
- 3) the conditions of and procedure for membership in the trade union and for leaving and exclusion from the trade union;
- 4) the rights and obligations of members or the procedure for establishment of obligations for members with regard to the union;
- 5) the procedure for representation of members, the liability of members;
- 6) the organisational structure of the trade union, the competence of structural units;
- 7) the names, procedure for foundation, term of authority, quorum, competence and procedure for decision-making of the trade union bodies;
- 8) the procedure for calling the general meeting, including calling the general meeting at the request of members;

- 9) the procedure for establishment and payment of entrance and membership fees;
- 10) the procedure for amendment of the articles of association;
- 11) the procedure for exercising supervision over the activities of the trade union bodies and the use of funds, and for designation of controllers and their reporting;
- 12) the procedure for dissolution of the trade union;
- 13) the principles of distribution of assets of the trade union upon dissolution of the union;
- 14) other conditions provided by law.

(2) The provisions of the articles of association shall ensure that trade union bodies are formed and representatives are elected with the participation of as many members or their representatives as possible and that the members are well informed of the work of the bodies.

(3) The articles of association may also prescribe other conditions which are not contrary to law. If a provision of the articles of association is contrary to a provision of law, the provision of law shall be applied.

§ 9. General meeting

(1) The highest body of a trade union shall be the general meeting, conference or congress (hereinafter *general meeting*) pursuant to its articles of association. All members of the trade union or their representatives may participate in the general meeting pursuant to the procedure provided for in the articles of association.

(2) Resolutions of the general meeting are adopted if over one-half of the members or their representatives who participated in the meeting vote in favour of the resolution, unless the articles of association prescribe a greater majority requirement.

- (3) The competence of the general meeting includes:
- 1) adoption and amendment of the articles of association;
 - 2) change of objectives;
 - 3) voluntary dissolution;
 - 4) other issues provided for in the articles of association.

(4) In issues provided for in clauses (3)1) to 3) of this section, a resolution of the general meeting is adopted if at least two-thirds of the members or their representatives who participated in the general meeting voted in favour of the resolution, unless the articles of association prescribe a greater majority requirement.

(5) Each member who is a natural person shall have one vote. Each trade union which is a member shall have at least one vote.

§ 10. Specifications for application of Non-profit Associations Act

(1) The requirements specified in subsection 13(2), subsection 16(4), sections 19 to 20¹ and sections 22 to 23 of the Non-profit Associations Act shall be applied with regard to trade unions, unless otherwise provided by the articles of association.

[RT I 2009, 13, 78 - entry into force 01.07.2009]

(2) The requirement for submission of reports to the general meeting and the approval thereof at the general meeting provided for in subsections 36(2) and (3) of the Non-profit Associations Act shall be applied with regard to a trade union, unless otherwise provided by the articles of association.

(2¹) A trade union shall submit the annual report pursuant to subsection 36(5) and subsection 78(3) of the Non-profit Associations Act without information concerning the principal activity.

[RT I 2009, 54, 363 - entry into force 01.01.2010]

(3) The requirement for notarisation provided for in subsection 79(2) of the Non-profit Associations Act shall not be applied with regard to a trade union.

[RT I 2009, 13, 78 - entry into force 01.07.2009]

(4) The notarisation requirement provided for in clause 60(1)1) and clause 69(1)1) of the Non-profit Associations Act shall not be applied with regard to a trade union.

(5) Subsection 17(1), subsections 21(5) and (8), subsection 22(4), the second sentence of subsection 25(1), section 30 and subsection 82(3) of the Non-profit Associations Act shall not be applied with regard to a trade union.

[RT I 2009, 13, 78 - entry into force 01.07.2009]

§ 11. Register of trade unions

(1) The register of trade unions is a part of the non-profit associations and foundations register with regard to which the provisions of legislation concerning the non-profit associations and foundations register shall be applied, unless otherwise provided for in this Act.

(2) The register shall be maintained concerning trade unions.

(3) The register shall be maintained by the Registration Department of the Tartu County Court (hereinafter *the registrar*).

[RT I, 21.06.2014, 8 - entry into force 01.01.2015]

(4) [Repealed -RT I, 21.06.2014, 8 - entry into force 01.01.2015]

§ 12. Prohibition on refusal to enter in register

If a trade union complies with the requirements of this Act regarding the objectives of the trade union, the founders, the members, the number of members, foundation resolutions of trade union bodies, the existence and competence of directing bodies arising from law, and if the articles of association of the trade union regulate the requirements provided for in section 8 of this Act, and if the name of the trade union is not misleading regarding the scope of competence and legal form of the trade union, the registrar does not have the right to refuse registration.

Chapter 3 DISSOLUTION OF TRADE UNIONS

§ 13. Voluntary dissolution of trade union

A trade union is dissolved voluntarily by a resolution of the general meeting. The general meeting shall adopt a resolution on the procedure for liquidation pursuant to the articles of association and law.

§ 14. Dissolution by court ruling

[RT I 2008, 59, 330 - entry into force 01.01.2009]

(1) A trade union is dissolved by a court ruling at the request of an interested person if:

[RT I 2008, 59, 330 - entry into force 01.01.2009]

1) the foundation or activities of the trade union are contrary to law or the objectives of the trade union specified in the articles of association;

2) the number of members has fallen below the number provided for in subsection 7(1) of this Act and the management board does not initiate voluntary dissolution within six months;

3) [repealed – RT I 2008, 59, 330 – entry into force 01.01.2009]

(2) A court may set a deadline for elimination of deficiencies specified in clause (1)1) of this section.

§ 15. Distribution of assets

(1) Upon liquidation of a trade union, the assets remaining after satisfaction of all claims of creditors and the deposit of money shall be distributed pursuant to the articles of association.

(2) If it is not possible to apply the procedure for the distribution of assets prescribed in the articles of association, the remaining assets provided for in subsection (1) of this section shall be transferred to the federation or confederation to which the liquidated trade union belonged. If the trade union did not belong to a federation or confederation, the remaining assets shall be distributed between the trade unions of a similar area of activity or profession.

Chapter 4 COMPETENCE AND RIGHTS OF TRADE UNIONS

§ 16. Principles of representation of employees

(1) In collective employment relationships, a trade union has the right to represent and protect the rights and interests of employees within the limits of its competence.

(2) In individual employment relationships, a trade union shall represent and protect the rights and interests of its members on the basis of an authorisation from the member, unless otherwise provided by law.

(3) In individual employment relationships, a trade union has the right to represent and protect the rights and interests of an employee who is not a member of the trade union, provided the employee submits a corresponding written authorisation to the trade union.

(4) A representative elected by a trade union who is an employee of an employer and performs the obligations of an elected representative specified in section 21 of this Act (hereinafter *shop steward*) shall be deemed to be employees' representative within the meaning of the Employment Contracts Act.
[RT I 2009, 5, 35 - entry into force 01.07.2009]

§ 17. Competence of trade unions

In order to represent, exercise and protect the rights and interests of employees, the competence of trade unions includes:

- 1) entry into collective agreements or other contracts pertaining to employment, service or social affairs with employers or their associations, state authorities, and local governments and the Government of the Republic;
- 2) submission of proposals into draft legislation in issues relating to the employment, service-related, professional, and economic and social rights and interests of employees;
- 3) submission of proposals to state and local government authorities for the amendment of legislation regulating employment and social issues;
- 4) in order to improve the situation of occupational safety and health, co-operation with the corresponding state and government authorities, and employers and their associations;
- 5) co-operation with state employment services and local governments in issues relating to the improvement of employment, training, in-service training, professional skills and professional training;
- 6) participation in informing and consulting employees through a shop steward pursuant to the procedure provided for in this Act;
[RT I 2007, 2, 6 - entry into force 01.02.2007]
- 7) representation and protection of their members in labour dispute resolution bodies, in relations with state and local government authorities, employers and associations of employers.

§ 18. Rights of trade unions

- (1) In order to exercise their competence, trade unions have the right to:
- 1) receive, without hindrance, from employers, their representatives, state authorities and local governments information concerning employment and social affairs and other information concerning issues involving the interests of employees;
 - 2) hold negotiations in employment, service-related and social issues with employers and their associations, state authorities and local governments for entry into collective agreements and other contracts;
 - 3) submit proposals concerning draft legislation relating to the employment, service-related, professional, and economic and social rights and interests of members of the trade union (federation);
 - 4) receive information on the situation in the labour market, vacant jobs and possibilities of employment training from state employment services through the elected representative of the trade union;
 - 5) disseminate their positions through mass media, own printing facilities and media, develop publishing, including issue and distribute newspapers and other printed matter;
 - 6) in order to achieve their objectives, organise meetings, political meetings, street parades, pickets and strikes pursuant to the procedure prescribed by law;
 - 7) freely develop any kind of foreign relations in order to carry out their objectives specified in the articles of association, including join international organisations of employees;
 - 8) train and consult their members in employment and social issues and other issues involving the interests of employees.

(2) Trade unions have the right to exercise also other rights prescribed in Acts or agreements.

Chapter 5 RELATIONS BETWEEN TRADE UNIONS AND EMPLOYERS

§ 19. Rights of employee

(1) An employee has the right to be a member of a trade union of his or her workplace or another trade union. An employee has the right to act as an elected member of a trade union.

(2) The rights of an employee and a person seeking employment shall not be restricted on the ground of their membership in a trade union or absence thereof, of being elected a representative of a trade union, or of other legal activities related to trade unions.

(3) The restriction of rights provided for in subsection (2) of this section means that due to activities related to trade unions:

- 1) an employee is not allowed to work;
- 2) an employment contract of an employee is cancelled or he or she is released from service;
- 3) the working conditions of an employee are impaired;

- 4) remuneration, wages or additional remuneration is reduced or not paid;
 - 5) a disciplinary penalty is imposed;
 - 6) an employee is threatened with cancellation of the employment contract, release from service, impairment of working conditions, imposition of punishment;
 - 7) an employee is otherwise treated unequally.
- [RT I 2009, 5, 35 - entry into force 01.07.2009]

(4) An employee whose rights are restricted in a way provided for in subsection (3) of this section has the right to demand termination of the restriction, compensation for the proprietary or non-proprietary damage caused to him or her and restoration of the former situation.

(5) An employer shall be released from liability only if he or she proves that the restriction of the rights of an employee was legal and not related to the activities of the employee related to trade unions.

(6) Unequal treatment shall not be deemed to be grant of privileges due to membership in a trade union or representation of employees.

[RT I 2009, 5, 35 - entry into force 01.07.2009]

§ 20. Obligations of employers in relations with trade union

(1) An employer is required to:

- 1) grant a workroom for a trade union, if possible;
[RT I 2007, 2, 6 - entry into force 01.02.2007]
- 2) grant premises for holding trade union events at least once a month and permit members of the trade union of a company, agency or other organisation and also other persons invited by trade unions to participate in these events. An employer shall be notified in advance of the participation of persons who are invited outside of the company, agency or other organisation by the trade union;
- 3) allow a member of a trade union at least five days free from work in order for him or her to participate in training organised by the trade union or in the work of trade union bodies on the basis of written invitations submitted by the trade union, provided it does not bring about significant impediments to the economic activities of the employer. On the days free from work granted pursuant to this clause, the employee shall continue to receive his or her average wages for two days a year;
- 4) at the request of an elected representative of a trade union, commence negotiations for entry into or amendment of a collective agreement and other contract pertaining to employment, service or social affairs;
- 5) permit representatives elected by a trade union to examine without hindrance the work organisation and the working conditions in the company, agency or other organisation where members of the trade union are employed. To permit an elected representative to submit opinions and proposals in issues concerning representation of employees;
- 6) perform other duties arising from law or a collective agreement with regard to trade unions.

(2) The duties listed in subsection (1) of this section may be extended by a collective agreement or other contract entered into between the parties.

§ 21. Obligations of elected representative of trade union in relations with employer

(1) An elected representative of a trade union is required to:

- 1) notify the employer in writing of foundation of a trade union in the company, agency or other organisation no later than within one month after the foundation meeting of the trade union takes place;
- 2) notify the employer in writing of the given names and surnames, positions and terms of authority of the shop steward and members of the management board of the trade union;
[RT I 2007, 2, 6 - entry into force 01.02.2007]
- 3) ensure compliance with the duty to refrain from striking at the time established by law and the collective agreement;
- 4) ensure the performance of collective agreements in respect of obligations which rest with the trade union;
- 5) if necessary, mediate between different parties in informing and consulting;
- 6) [repealed – RT I 2007, 2, 6 – entry into force 01.02.2007]
- 7) co-operate with an employees' trustee, the working environment representative and working environment council;
[RT I 2007, 2, 6 - entry into force 01.02.2007]
- 8) perform other duties arising from law or a collective agreement in respect of the employer.

(2) The duties listed in subsection (1) of this section may be extended by a collective agreement or other contract entered into between the parties.

§ 21¹. Time of performance of duties of shop steward

(1) A shop steward shall perform his or her duties by agreement with the employer during working time or outside working time.

(2) The employer shall guarantee to at least one shop steward for the performance of his or her duties during working time:

- 1) in case of representation of 5 to 100 members of a trade union employed with the employer, at least 4 hours per a working week;
- 2) in case of representation of 101 to 300 members of a trade union employed with the employer, at least 8 hours per a working week;
- 3) in case of representation of 301 to 500 members of a trade union employed with the employer, at least 16 hours per a working week;
- 4) in case of representation of over 500 members of a trade union employed with the employer, at least 40 hours per a working week;

(3) For grant of time prescribed for performance of the duties of a shop steward, the trade union shall inform the employer of the number of the members of the trade union employed with the employer.
[RT I 2007, 2, 6 - entry into force 01.02.2007]

§ 21². Guarantee for time of performance of duties of shop steward

For the time of performance of the duties of a shop steward pursuant to section 21¹ of this Act, a shop steward shall be retained the average wages.
[RT I 2009, 5, 35 - entry into force 01.07.2009]

§ 22. Participation of shop steward in informing and consulting

(1) An employer shall inform the shop steward and shall consult with him or her under the conditions and pursuant to the procedure prescribed in sections 17 to 21 of the Employees' Trustee Act.

(2) A shop steward is required to communicate the received information to the employees.

(3) Upon receipt and maintenance of confidential information and in case of refusal to provide information in the performance of the duty to inform and consult, the provisions of the Employees' Trustee Act shall be applied.

[RT I 2007, 2, 6 - entry into force 01.02.2007]

§ 23. Protection of rights of trade union and its elected representatives upon merger, division and transformation of agency, organisation and company, in case of transfer of enterprise or part thereof

The rights and obligations of a trade union and its elected representatives do not change in respect of the employer in case of transfer of the rights and obligations of the employer.

§ 24. Competence of trade unions upon exercise of supervision over compliance with labour laws and performance of contracts entered into

(1) If an employer violates laws regulating employment and service relationships, an employment contract or collective agreement and other contracts concerning the interests of the members of a trade union, the trade union has the right of recourse to the Labour Inspectorate. A supervisory agency is required to reply to a written appeal not later than within two weeks.

[RT I 2009, 5, 35 - entry into force 01.07.2009]

(2) If an employer or its representative does not comply with the law or fails to perform or violates a contract, the trade union a member of which the employee is has the right to demand, at the corresponding request of the employee, that the employer comply with the law or perform the contract or terminate the violation. At the corresponding request of a member of the trade union, the verification of employment contracts and collective agreements, documents concerning working conditions, working and rest time and work regimes, wage conditions, bases for payment of wages, occupational safety, social insurance payments or making of payments falls within the competence of the trade union.

Chapter 5¹ **STATE SUPERVISION**

§ 24¹. Exercise of state supervision

State supervision over compliance with the requirements provided for in subsections 21¹(2) and (3) and in section 22 of this Act shall be exercised by the Labour Inspectorate under the conditions and pursuant to the procedure provided for in the Occupational Health and Safety Act.

State supervision over the requirements provided for in subsection 22(1) of this Act shall be exercised by the Labour Inspectorate under the conditions and pursuant to the procedure provided for in the Occupational Health and Safety Act, having regard to the specifications provided for in section 22 of the Employees' Trustee Act.

[RT I 2009, 5, 35 - entry into force 01.07.2009]

§ 24². Challenge proceedings concerning precept

Challenge proceedings concerning a precept are subject to the provisions of the Occupational Health and Safety Act.

[RT I 2009, 5, 35 - entry into force 01.07.2009]

Chapter 6 PROCEDURE FOR RESOLUTION OF DISPUTES

§ 25. Dispute resolution

(1) Individual labour disputes between employees or elected representatives of a trade union and an employer arising in the application of provisions of this Act shall be resolved pursuant to the procedure for the resolution of individual labour disputes, and disputes arising in public service shall be resolved pursuant to the procedure provided for in the Code of Administrative Court Procedure.

(2) Other disputes arising in the application of provisions of this Act shall be resolved in court.

§ 26. Compensation for damage

A trade union the rights of which have been violated has the right to demand termination of the violation, performance of the obligation, and compensation for proprietary and non-proprietary damage.

[RT I 2002, 63, 387 - entry into force 01.09.2002]

Chapter 6¹ LIABILITY

§ 26¹. Failure to perform obligations of employer in relations with trade union

Failure by an employer to enter into negotiations over entry into or amendment of a collective agreement or other contract, or failure to provide an employee with the opportunity to participate in the work of or training organised by a trade union body, or restricting of the rights of an employee due to his or her membership in a trade union or acting as an elected representative of a trade union is punishable by a fine of up to 100 fine units.

§ 26². Hindering of activities of elected representative of trade union

Hindering, by an employer, of an elected representative of a trade union from examining the work organisation or the working conditions of employees at a place where a member of the trade union works is punishable by a fine of up to 100 fine units.

§ 26³. Violation of obligation to inform and consult

[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 26⁴. Failure to perform obligations of elected representative of trade union in relations with employer

Failure by an elected representative of a trade union to ensure observance of the obligation to refrain from striking during a period prescribed by law or a collective agreement is punishable by a fine of up to 100 fine units.

[RT I 2007, 2, 6 - entry into force 01.02.2007]

§ 26⁵. Obstruction of lawful activities of trade union

Obstruction of the lawful activities of a trade union is punishable by a fine of up to 200 fine units.

§ 26⁶. [Repealed – RT I 2007, 2, 6 – entry into force 01.02.2007]

§ 26⁷. Violation of obligation to maintain confidentiality of information

[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 26⁸. Proceedings

(1) [Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(2) The body conducting extra-judicial proceedings pertaining to the misdemeanours provided for in sections 26¹, 26², 26⁴ and 26⁵ of this Act is the Labour Inspectorate.
[RT I 2007, 2, 6 - entry into force 01.02.2007]

Chapter 7 IMPLEMENTATION OF ACT

§ 27. Application of this Act to trade unions

(1) As of entry into force of this Act, trade unions may be founded only pursuant to the procedure provided for in this Act and the provisions of this Act shall be applied to them.

(2) A registrar shall, within six months as of entry into force of this Act, enter a trade union founded before the entry into force of this Act and entered in the non-profit associations and foundations register, based on the name of the trade union or the objective provided for in the articles of association, in the register of trade unions which is maintained as part of the non-profit associations and foundations register. The registrar shall notify the corresponding trade union of the entry order. A trade union which is entered in the non-profit associations and foundations register and is not entered in the register of trade unions has the right to apply for entry in the register.

(3) A trade union which was founded pursuant to the Estonian SSR Trade Unions Act (ENSV Teataja 1989, 40, 623; RT 1992, 35, 462) and was not re-registered pursuant to the Non-profit Associations Act has the right to apply for entry in the register on the basis of foundation documents if the articles of association thereof are not contrary to the requirements of this Act. A trade union which was not re-registered pursuant to the Non-profit Associations Act has the right to apply for entry in the register within six months as of entry into force of this Act. An application for entry in the register shall set out the information as provided by law, and the documents provided by law, except for the memorandum of association, and the certificate of registration of the enterprise in the register shall be appended to the application.

(4) After termination of authority in the elected position, a representative of a trade union elected from among the employees of an enterprise shall be reinstated in his or her former job or position, and in the absence thereof, in another equivalent job or position.

§ 28.–§ 30.[Omitted from this text.]