

No. 410.—His Excellency the Governor has given his assent, in the name and on behalf of His Majesty the KING, to the following Ordinance passed by the Legislative Council:—

Ordinance No. 10 of 1927.—An Ordinance to declare and amend the law relating to illegal strikes and lock-outs, to amend the law relating to intimidation and to breaches of contracts of service in certain special cases, to promote the independence of trade unions established within the Colony, and for purposes connected with the aforesaid purposes.

## HONG KONG.

No. 10 OF 1927.

I assent.

(L.S.)

C. CLEMENTI,  
Governor.

.8th July, 1927.

An Ordinance to declare and amend the law relating to illegal strikes and lock-outs, to amend the law relating to intimidation and to breaches of contracts of service in certain special cases, to promote the independence of trade unions established within the Colony, and for purposes connected with the aforesaid purposes.

[8th July, 1927.]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Illegal Strikes and Lock-outs Ordinance, 1927.

2. In this Ordinance,

- Interpreta-  
tion.
- (a) "Strike" means the cessation of work by a body of persons employed acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been employed, to continue to work or to accept employment.
- (b) "Trade union" means any combination of persons employed, whether a temporary or a permanent combination, and whether a branch association or not, which has among its objects the regulation of the relations between employers and employed.

3.—(1) It is hereby declared that any strike is illegal if it has any object other than or in addition to the furtherance of a trade dispute within the trade or industry in which the strikers are engaged and is a strike designed or calculated to coerce the Government either directly or by inflicting hardship upon the community or any substantial portion of the community; and it is further declared that it is illegal to commence, or to continue, or to apply any sums in furtherance or support of, any such illegal strike.

(2) It is hereby declared that any lock-out is illegal if it has any object other than or in addition to the furtherance of a trade dispute within the trade or industry in which the employers locking-out are engaged and is a lock-out designed or calculated to coerce the Government either directly or by inflicting hardship upon the community; and it is further declared that it is illegal to commence, or to continue, or to apply any sums in furtherance or support of, any such illegal lock-out.

(3) For the purposes of this section, a trade dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen, or between workmen and workmen, in that trade or industry, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of persons in that trade or industry.

(4) Without prejudice to the generality of the expression "trade or industry", workmen shall be deemed to be within the same trade or industry if their wages or conditions of employment are determined in accordance with the conclusions of the same joint industrial council, conciliation board, or other similar body, or in accordance with agreements made with the same employer or group of employers.

(5) No person shall declare, instigate, incite others to take part in, or otherwise act in furtherance of a strike or lock-out declared by this Ordinance to be illegal: Provided that no person shall be deemed to have committed an offence under this section or at a common law by reason only of his having ceased work or refused to continue work or to accept employment.

Protection of  
persons  
refusing to  
take part in  
illegal strikes

4.—(1) No person refusing to take part or to continue to take part in any strike which is by this Ordinance declared to be illegal, shall be, by reason of such refusal or by reason of any action taken by him under this section, subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he would otherwise be entitled, or liable to be placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the trade union or society, anything to the contrary in the rules of the trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the reference of disputes to arbitration shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as the court thinks just.

Prevention of  
intimidation.  
38 & 39 Vict.  
c. 86, s. 7.

5.—(1) No person shall, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or to abstain from doing, wrongfully and without legal authority,—

- (a) use violence to or intimidate such other person or his wife or children, or injure his property; or,
- (b) persistently follow such other person about from place to place; or,
- (c) hide any tools, clothes, or other property owned or used by such other person, or deprive him of or hinder him in the use thereof; or,
- (d) watch or beset the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place; or,
- (e) follow such other person with two or more other persons in a disorderly manner in or through any street or road.

(2) It is hereby declared that it is unlawful for one or more persons (whether acting on their own behalf or on behalf of a trade union or society or of an individual employer or firm, and notwithstanding that they may be acting in contemplation or furtherance of a trade dispute) to attend at or near a house or place where a person resides or works or happens to be, for the purpose of obtaining or communicating information or of persuading or inducing any person to work or to abstain from working, if they so attend in such numbers or otherwise in such manner as to be calculated to intimidate any person in that house or place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace; and attending at or near any house or place in such numbers or in such manner as is by this sub-section declared to be unlawful shall be deemed to be a watching or besetting of that house or place within the meaning of sub-section (1).

(3) In this section the expression "to intimidate" means to cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or of violence or damage to any person or property, and the expression "injury" includes injury other than physical or material injury, and accordingly the expression "apprehension of injury" includes an apprehension of boycott, or loss of any kind, or of exposure to hatred, ridicule, or contempt.

6.—(1) No person who is employed in the service of the Crown under the Government of Hong Kong shall wilfully break an agreement for service under the Crown if he knows or has reasonable cause to believe that the probable consequence of his so doing, either alone or in combination with others, would, failing the adoption of extraordinary measures, be to hinder or prevent the discharge of the functions of the Government.

Breach of contract of service to be an offence in certain cases.  
38 & 39 Vict. c. 86, ss. 4, 5

(2) For the purpose of sub-section (1), and without prejudice to the interpretation of any express term of the agreement other than a term relating to notice, a person who is employed in the service of the Crown shall be deemed to break his agreement for service under the Crown if he absents himself from duty without leave and without having given to the head of his department one month's notice in writing terminating with the last day of a calendar month, or if he wilfully refuses duty, or if he wilfully omits to perform his duty, provided that the provisions of this sub-section relating to notice shall not apply to any person who is engaged by the day or who is paid daily.

(3) No person who is employed by any company, firm or person engaged in the business of supplying electric current or gas to the public, or engaged in maintaining any public tramway, bus service, or public ferry, or engaged in maintaining any telephone or sanitary service, shall wilfully break a contract of service with such company, firm or person as aforesaid, if he knows or has reasonable cause to believe that the probable consequence of his so doing, either alone or in combination with others, would, failing the adoption of extraordinary measures, be to deprive the inhabitants of the Colony, or a substantial number of them, wholly or to a great extent, of their supply of electric current or gas, or of the ordinary facilities of transport, or of the ordinary telephone or sanitary services.

(4) No person shall wilfully break any contract of service if he knows or has reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, would, failing the adoption of extraordinary measures, be to endanger human life, or to cause serious bodily injury, or to expose valuable property whether movable or immovable to destruction or serious injury.

Hong Kong trade union not to be under the control of any trade union or other organization outside the Colony.

7.—(1) Except with the consent of the Governor in Council, no trade union which is established within the Colony shall be affiliated or connected with any trade union or other organization which is established outside the Colony in such a manner as to place the trade union which is established within the Colony, or any of its members, in any way or in any matter under the control of the trade union or other organization which is established outside the Colony.

(2) Any consent of the Governor in Council under the provisions of sub-section (1) may be made retrospective in effect to such date as the Governor in Council shall think fit.

(3) Every trade union so affiliated or connected which has not obtained the consent of the Governor in Council to be so affiliated or connected, or from which any such consent has been withdrawn, shall be deemed to be an unlawful society within the meaning and for all the purpose of the Societies Ordinance, 1920.

Ordinance No. 8 of 1920.

(4) It shall be lawful for the Governor in Council in his absolute discretion to declare any trade union which in his opinion is so affiliated or connected, and which has not obtained the consent of the Governor in Council to be so affiliated or connected, or from which any such consent has been withdrawn, to be an unlawful society within the meaning and for all the purposes of the Societies Ordinance, 1920.

Ordinance No. 8 of 1920.

(5) Without prejudice to any other method of proof, a trade union shall for the purposes of sub-section (1) be deemed to be established within the Colony—

- (a) if it maintains, either continuously or from time to time, any office or any other premises within the Colony;
- (b) if it maintains, either continuously or from time to time, any officer within the Colony;
- (c) if a sign board bearing its name is displayed at any place in the Colony, whether public or private, unless it is proved that such sign board was so displayed without the knowledge of any officer of such trade union; or
- (d) if any document is found in the Colony which purports or appears to be a direction or notice on behalf of such trade union to any person or persons with regard to any action by such person or persons within the Colony, unless it is proved that such direction or notice (i) was issued without the knowledge of any officer of such trade union or (ii) was not intended as a direction or notice with regard to any action by such person or persons within the Colony.

(6) Subject to the provisions of sub-section (8), no person shall on behalf of or in the name of any trade union which is established outside the Colony give or attempt to give, directly or indirectly, any direction or notice to any person or persons with regard to any action by such person or persons within the Colony.

(7) Subject to the provisions of sub-section (8), no person shall without lawful authority or excuse have in his possession any document which purports or appears to be a direction or notice on behalf of or in the name of any trade union which is established outside the Colony with regard to any action by any person or persons within the Colony.

(8) The provisions of sub-sections (6) and (7) shall not apply to any direction or notice issued or given on behalf of or in the name of any trade union which is established outside the Colony to the members of any trade union which is established within the Colony if the trade union which is established within the Colony is with the consent of the Governor in Council affiliated or connected with the trade union which is established outside the Colony.

(9) In any prosecution under this section the onus of proving that any organization in question was not a trade union, or that any organization in question was not a trade union which was established outside the Colony, shall lie on the defendant.

8. It shall not be lawful to apply any of the funds of any trade union to any political purpose outside the Colony, and no person shall require or invite any member of a trade union or any other person to make any contribution to the funds of any trade union for any political purpose outside the Colony.

9. Without prejudice to the right of any person having a sufficient interest in the relief sought to sue or apply for an injunction to restrain any application of the funds of a trade union in contravention of the provisions of this Ordinance, such an injunction may be granted at the suit or upon the application of the Attorney General.

Trade union funds not to be used for political purposes outside the Colony.  
Restraint of application of funds of trade unions, etc., in contravention of Ordinance.

10. Every person who contravenes any of the provisions of this Ordinance shall upon summary conviction be liable to a fine not exceeding five hundred dollars and to imprisonment for any term not exceeding six months.

Penalties.

11. No prosecution for any offence under section 3, 6, 7, or 8 shall be commenced without the consent of the Attorney General.

Sanction of Attorney General.

Passed the Legislative Council of Hong Kong, this 7th day of July, 1927.

E. W. HAMILTON,  
*Deputy Clerk of Councils.*