

**THE ORGANIZATION OF TANZANIA TRADE UNIONS ACT,
1991**

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No. 20 OF 1991


I ASSENT,
hassan
President
3rd December 1991

An Act to give statutory affect to the establishment of the Organization of Tanzania Trade Unions as the sole union representative of all workers In Tanzania, and consequentially to provide for the deregistration of JUWATA, the repeal of the Jumuiya ya Wafanyakazi wa Tanzania Act, 1979, and for other matters relative to those

I I

WHEREAS in compliance with its decisions Chama cha Mapinduzi has ceased to have Jumuiya ya Wafanyakazi wa Tanzania established as a mass organization under the Constitution of the Party:

AND WHEREAS in consequence of that decision of the Party, Jumuiya ya Wafanyakazi wa Tanzania has, in compliance with its Rules, established an organization to be known as Organization of Tanzania Trade Unions or, by the acronym OTTU which will exist as a trade union with effect from the effective date:

AND WHEREAS, therefore, with effect from the effective date, Jumuiya ya Wafanyakazi wa Tanzania shall cease to exist:

AND WHEREAS it is therefore meet that statutory provisions be made giving effect to the changes thereby produced, and to make other provisions connected with the demise of JUWATA and the establishment of OTTU, including the deregistration of JUWATA and the repeal of the Jumuiya ya Wafanyakazi wa Tanzania Act, 1979:

NOW THEREFORE, it be enacted -by the Parliament of the United Republic of Tanzania as follows.-

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Organization of Tanzania Trade Unions Act, 1991, and shall be read as one with the Trade Union Ordinance

Short title
and construction
Cap. 381

Com-
mence-
ment

2. This Act shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Interpre-
tation

3. In this Act, unless the context requires otherwise-

"the effective date" means the day appointed pursuant to section 2;

"JUWATA" means Jumuiya ya Wafanyakazi wa Tanzania established pursuant to the Constitution of the Party and referred to in the repealed law;

"the Minister" means the Minister for the time being responsible for labour matters;

"the Ordinance" means the Trade Unions Ordinance;

OTTU" means the Organization of Tanzania Trade Unions;

"the Party" means Chama cha Mapinduzi;

"the Registrar" means the Registrar of Trade Unions appointed under section 3 of the Ordinance, and includes an assistant registrar appointed under section 4 of the Ordinance.

"Union" means an OTTU Union formed or established in accordance with section 8.

PART II

THE ORGANIZATION OF TANZANIA TRADE UNIONS

OTTU
deemed to
be a union
of all
employ-
ees in
Tanzania

4-(1) OTTU shall be the sole trade union body representative of all employees in the United Republic.

(2) OTTU shall, with effect from the effective date, be deemed to be a trade union, and the Registrar shall, upon appropriate application being made, register it in that behalf under the Ordinance.

Member-
ship of
OTTU

5.-(1) Subject to subsections (2) and (3) and to the relevant provisions of the Constitution of OTTU of any other written law for the time being in force in relation to the eligibility of persons to be members of trade unions, persons may become members of OTTU in accordance with the procedure prescribed by or under the Constitution of OTTU.

(2) For the purposes of this Act, every person who is, immediately before the effective date, a member of JUWATA shall, with effect from the effective date, be deemed to have become and, unless the contrary is proved, to be a founder member of OTTU, and his membership of OTTU shall be governed by the Rules.

(3) A founder member of OTTU shall not be liable to pay any initial fees in respect of his membership of OTTU.

Secretary
General
of OTTU

6. The Secretary-General of OTTU holding office in accordance with the Constitution of OTTU shall be the chief executive officer of OTTU and shall be responsible for the conduct and management of an the affairs and activities of OTTU.

7.--(1) The affairs and activities of OTTU and of unions formed by or affiliated to OTTU, and their conduct and management, shall be governed by the Constitution of OTTU which shall, subject to this Act be deemed to be the rules of OTTU for the purposes of the Ordinance.

The
OTTU
Constitu-
tion

(2) For the avoidance of doubt, it is hereby declared that the provisions of the Constitution of OTTU regarding the functions and powers of OTTU, and its departments, members, organs and trustees, shall apply to their respective capacities only in relation to OTTU as a trade union and nothing in that Constitution nor in this Act shall be construed as authorizing the disregard of any enactment or rule of law by OTTU or by any of its departments, members, organs or trustees.

(3) OTTU shall not be deemed to be in default under any of the provisions of the Ordinance relating to the rules of a trade union and the matters to be contained in those rules, or be liable to have its registration under the Ordinance canceled, solely by reason of the omission from its Constitution of any matter required to be contained in the rules of a trade union; and nothing in section 13(1)(f), 27 or 36 or the Ordinance shall apply to OTTU.

(4) Subject to the Ordinance and to this Act, the Constitution of OTTU submitted to the Registrar for the purposes of registration may be amended, modified or replaced in accordance with the procedure provided for in that behalf in the Constitution.

8.-(1) Every union formed by or affiliated to OTTU in accordance with the Constitution of OTTU shall be known as an OTTU union.

OTTU
unions to
be
deemed to
have been
registered

(2) Every OTTU union shall be deemed to be a trade union and to have been registered as such together with OTTU; save that the cessation of trade union activities of any OTTU union in accordance with this Act shall not by itself alone affect the validity of the existence or operations of OTTU under this Act.

9. -(1) If the Registrar is satisfied-

- (a) that it is necessary or desirable for any of the reasons prescribed by Section 14 of the Ordinance that the registration of OTTU be cancelled, or
- (b) that OTTU has failed to carry out satisfactorily the objects for which it is invested with the status of sole trade union body representative of all employees in the United Republic; or
- (c) that the further operation of OTTU as a trade union is no longer in the public interest,

Cancellat-
ion of
registra-
tion by
Registrar

he may, after consultation with all such parties as he deems it necessary in the public interest and obtaining the prior approval in writing of the Minister, by order published in the Gazette, order the cancellation of the registration of OTTU under the Ordinance.

(2) The Registrar shall, in the Order made under subsection (1) cancelling the registration of OTTU, specify some other trade union body which shall, subject to such terms, conditions or limitations as the Registrar shall prescribe in the Order, operate as representative of all employees in the place of the one whose registration is canceled.

(3) Subject to subsection (4), where the Registrar orders the cancellation of the registration of OTTU under the Ordinance in accordance with this section, the provisions of paragraphs (a), (b), (c) and (d) of subsection (1), and of subsection (2) of section 17 of the Ordinance shall apply as if the registration of OTTU had been canceled under section 14 of the Ordinance,

(4) The Registrar shall include in the order under subsection (1), such provisions regarding the disposal of the assets of OTTU to such new body and its assumption of the liabilities of OTTU as appear to him to be just and equitable and such directions shall have effect as if they had been set out in this section.

(5) The Minister shall, not later than three months from the date of publication of the order made by the Registrar, submit before the National Assembly for its approval by resolution-

- (a) the order made by the Registrar and published in the *Gazette*,
- (b) a report pertaining to the circumstances surrounding the cancellation of the registration of OTTU, and the specification of another trade union body to be representative of all employees

Can-
cella-
tion of
OTTU
not to
affect
OTTU
unions

10--(1) Where the registration of OTTU is canceled in accordance with Section 9, the registration of any OTTU Union deemed to have been registered with OTTU shall not, unless the Registrar provides otherwise in the order under Section 9, be deemed to have been canceled along with the cancellation of the registration of OTTU.

(2) Upon the cancellation of the registration of OTTU, the Registrar shall by writing under his hand addressed to any such former OTTU union provide for its separate existence and registration under the Ordinance.

OTTU
dues

11.-(1) In this section the expression " OTTU dues" means any regular or periodic subscription required to be paid to OTTU by any of its members under its Constitution as a condition of his or its membership, but does not include any levy or subscription for a particular object or purpose.

(2) The Secretary-General or his representative shall issue to every employer who employs any person or persons, up to any number, who are members of OTTU, a written notice requiring employees--

- (a) to deduct from the wages of his employees who are members of OTTU the sums and at the periods specified in the notice; and
- (b) to pay to OTTU the sums to be deducted in the manner specified in the notice.

(3) The Secretary-General may, in lieu of serving separate notices to employers pursuant to the provisions of subsection (2), give the notice to all employers of persons who are members of OTTU by publishing it in the *Gazette*, and where the notice is so published all employers whom it is intended to affect shall be deemed to have notice of it.

(4) Upon a notice being given to an employer or employers pursuant to the provisions of subsection (2) or subsection (3), the provisions of the Trade Unions (Collection of Union Dues) Regulations, 196 shall apply to the employer or employers as if the notice had been given to him or them under regulation 4 of those Regulations, and all references in those Regulations to the "trade union" shall be construed as references to OTTU.

GN. 1962
No. 446

(5) Where any employer, to whom a notice is given under the provisions of subsection (2) or (3), refuses or fails to comply with the provisions of the notice, he shall in addition to any fine payable under regulation 5 of the Trade Unions Collection of Unions (Collection of Union Dues) Regulations, 1962, be liable to pay to OTTU a sum equal to fifteen per centum of the total amount of the deductions for each month during which the sums deducted are not paid to OTTU.

12.--(1) There is hereby created a levy to be known as OTTU service charge which shall be paid once in a calendar month by every person who is not a member of OTTU but who is employed in a place of work to which this section applies.

OTTU
service
charge

(2) The sum of money payable by any employee as OTTU service charge under this section shall be determined in the same manner as the sums of money payable by members of OTTU dues under section I 1.

(3) This section shall apply to all places of work where fifty or more per centum of the total number of the employees are members of OTTU.

(4) Where the Minister or his representative is satisfied that the numbers of OTTU employed by an employer at any place or places of work is fifty or more per centum of the total number of persons employed by him, he shall give a notice in writing to the employer notifying him that his place or places of work is or are subject to the provisions of this section.

(5) In computing the per centum of the total number of employees formed by the employees who are members of OTTU the total number of employees shall not include persons who are by any written law, prohibited or declared ineligible from being members of a trade union.

13.--(1) Where an employer is given a notice in accordance with the provisions of section 1(4), that employer shall, with effect from the date specified in the notice-

Collection
of OTTU
service
charges

(a) deduct from the monthly wages of his employees who are not members of OTTU the sums and at the periods specified in the notice; and

(b) pay to OTTU the sums so deducted and in the manner specified in the notice.

(2) The provisions of subsection (4) and (5) of section 11 shall apply to the collection of OTTU service charges under this section in the same manner and to the extent to which those provisions apply for the purposes of the collection of OTTU dues.

PART III
DEREGISTRATION OF JUWATA AND CONSEQUENTIAL PROVISIONS

Deregist-
ration of
JUWATA

14. JUWATA shall, with effect from the effective date be disestablished, and the Registrar shall in that behalf cancel its registration under the Ordinance.

Transfer
of
assets
and liab-
ilities of
JUWATA

15.-(1) Notwithstanding the provisions of section 17 of the Ordinance, all the assets and liabilities of JUWATA shall by virtue of this section and without further assurance, be vested in OTTU as from the effective date.

(2) Every person who, immediately before the effective date, was managing the affairs and business of JUWATA shall, upon the enactment of this Act, do all things that are necessary or desirable for the effectual vesting in accordance with the provisions of this Act of the assets and liabilities of JUWATA subsisting immediately before the effective date.

(3) Where before the enactment of this Act any person who, immediately before the effective date, was responsible for the management of the affairs and business of JUWATA did, or purported to do, any lawful act in relation to the assets and liabilities of JUWATA which if done after the enactment of this Act would have been necessary or desirable for the more effectual vesting of the assets and liabilities of JUWATA in OTTU, such lawful act shall be deemed to have been done under this Act, and its Performance by that person shall not be called into question in any court by reason only of that act having been done before the enactment of this Act.

Effect of
deregist-
ration of
JUWATA

16-(1) Every instrument specified under subsection (2) as an instrument to which that subsection applies shall, with effect from the effective date, by virtue of this section, continue in full force and effect, and OTTU shall, with effect from the effective date, be-

- (a) substituted for JUWATA as a party to the instrument;
 - (b) entitled to receive, and enforce payment of, any money payable under the instrument;
 - (c) entitled to obtain transfer, conveyance or assignment of, and enforce possession of any Property which was or is to be transferred, conveyed or assigned under the instrument;
 - (d) liable to make payment of any money payable under the instrument;
 - (e) liable to transfer, convey or assign any property which was or is to be transferred, conveyed or assigned under the instrument,
- as the case may be.

(2) This subsection applies to instruments (including contracts, guarantees, agreements, bonds, authorities, mortgages, charges, bills of exchange, promissory notes, bank drafts, bank cheques, letter of credit, securities, certificates of title, share and stock certificates, warrants and other documents-

- (a) to which JUWATA was or is a party;
- (b) creating or evidencing any right or JUWATA to property; or under which any money was or is to be, or may have, or may become, liable to be transferred, conveyed or assigned, by JUWATA,

which were subsisting on or come into existence after the effective date.

(3) Every reference in any written law to JUWATA shall be construed as a reference to OTTU.

17.--(1) Any legal proceedings pending before any court or other tribunal which were commenced immediately before the effective date and to which JUWATA is a party may, in so far as they relate to, any property, right, liability or obligation vested or deemed to have been vested in OTTU by this Act or to any deed, bond, agreement, award or other document or instrument which, after the commencement of this Act, has effect in accordance with section 16, be continued by or against OTTU.

Legal proceedings

(2) Where any proceedings were instituted by or against JUWATA before the commencement of this Act, in respect of any right, liability or obligation vested in JUWATA, OTTU and every other party to those proceedings may take all objections and exceptions as might have been taken in proceedings by or against JUWATA, including any objection or exception under Part IV of the Ordinance.

18.--(1) Except as is otherwise provided to the contrary by the Constitution of OTTU, all persons holding elective offices in JUWATA immediately before the effective date shall, after the effective date, and until they are replaced or reelected at OTTU elections, be leaders of OTTU elected Under the Corresponding provisions of the Constitution of OTTU.

Leaders and employees of JUWATA

(2) Every person employed by JUWATA immediately before the effective date shall as from the effective date be employed by OTTU.

(3) Where any person becomes an employee of OTTU pursuant to subsection (2) the terms and conditions of service applicable to him in his employment with OTTU shall, except where the President directs otherwise, be not less favourable than those which were applicable to him before date and, subject to any provisions of tion of OTTU relating to officers, departments and unions of OTTU, he shall as from the effective date, be deemed to have been appointed to the service of OTTU in such office as the Secretary-General of OTTU shall determine, and for the purposes of determining any right to gratuity or other superannuation benefit, his service with OTTU after the effective date shall be regarded as continuous with his service immediately before the effective date.

PART IV REPEAL AND AMENDMENT

Repeal of
JUWATA
Act.,

19.-(1) The jumuiya ya Wafanyakazi wa Tanzania Act, 1979, is hereby repealed.

Amend-
ment of
cap. 381

20. The provision of the Trade Union Ordinance set out in the first column of the Schedule to this Act are hereby amended in the manner set out opposite to them in the second column of the Schedule.

SCHEDULE- Section 20)

Amendment of the Trade Unions Ordinance

*First
Column*

Second Column

Section 2

1. Deleting the definition "trade union" and substituting for it the following definition:-

"trade union" mean the specified union and either temporary or permanent of twenty or more employees or of four or more employers, the principal purposes of which are under its constitution the regulation of the relations be. employees and employers, or between employees and employers, whether such combination would or would not, if this Ordinance had not been enacted, have been deemed enacted, 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 such a combination of employees employed by the Government, or by any department, or service of any international body or organisation operating in Tanzania, of which Tanzania is a member, shall not be deemed not to be a trade union by virtue only of its being a combination of persons employed by or under the Government:

Provided further that nothing in this Ordinance:-

(a) shall affect:

- (i) any agreement between partners as to their own business;
- (ii) my agreement between an employer and those employed by him as to such employment;
- (ii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession. trade or handicraft or

(b) shall preclude any trade union from providing benefits for its members

(2) Deleting the definition "the Specified Union" and substituting for It the following definition.-

Acts, 1991
No....

"the Specified Union" means the Organisation of Tanzania Trade unions established by the Organisation of Tanzania Trade Unions Act, 1991, and include any other body established by the President under section 9 of that Act."

Section 14

Acts, 1991 (1) Deleting subsection (7) and substituting for it the following new
NO subsection:-

-(7) Notwithstanding the foregoing provisions of this section, the Registrar shall not cancel the registration of the Specified Union except on the direction of the President given under section 9 of the Organisation of Tanzania Trade Unions Act, 1991.-.

Passed in the National Assembly on the 1st day of November, 1991.

Mwindad
Clerk of the National Assembly