

• GOVERNMENT OF THE SOVEREIGN DEMOCRATIC REPUBLIC OF FIJI  
DECREE NO. 44

TRADE UNIONS ACT (AMENDMENT) DECREE 1991

A DECREE TO AMEND THE TRADE UNIONS ACT

IN exercise of the powers vested in me and pursuant to section 5 of the Constitution of the Sovereign Democratic Republic of Fiji (Promulgation) Decree, 1990 and as amended by section 2 of the Constitution of the Sovereign Democratic Republic of Fiji (Promulgation) Decree 1990 (Amendment No. 1) Decree, 1990, I as the person appointed to perform the functions of the office of the President of the Republic of Fiji and acting in accordance with the advice of the Prime Minister and the Cabinet, hereby make the following Decree—

*Short title*

1. This Decree may be cited as the Trade Unions Act (Amendment) Decree 1991.

*Interpretation*

- 2.—(1) In this Decree the Trade Unions Act shall be referred to as “the principal Act”.

(2) Subsection (1) of Section 2 of the principal Act is amended by:—

- (a) inserting the following before the word “employee”:

““contract of service” means any contract, whether oral or in writing, whether express or implied, to employ or to serve as an employee for any period of time or number of days to be worked, or to execute any task or piece work or to perform for wages any journey and includes a foreign contract of service.”

- (b) inserting of the following immediately after the definition of “employee”—““employer” means any person or any firm, corporation or company, public authority or body of persons who or which has entered into a contract of service to employ any person and includes any agent, foreman, manager or factor of such person, firm, corporation, company, public authority or body of persons who is placed in authority over such person employed and where an employee has entered into a contract of service with the Government or with any officer on behalf of the Government, any Government officer under whom such employee is working shall be deemed to be his employer.”

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(c) repealing the word "strike" and its definition and substituting the following:—

"strike" means the act of any number of workers who are or have been in employment of the same employer or of different employers:

- (a) in discontinuing their employment whether wholly or partially, or in reducing the normal performance of it; or
- (b) in breaching their contracts of service;
- (c) in refusing or failing after such discontinuance to resume or return to their employment; or
- (d) in refusing or failing to accept engagement for any work in which they are usually employed; or
- (e) in reducing their normal output or their normal rate of work—  
the said act being due to any combination, agreement, common understanding, or concerted action, whether expressed or implied, made or entered into by any worker, but does not include a union meeting allowed by this Act or authorised by an employer."

*Section 13 of the principal Act amended*

3. Paragraph (e) of subsection (1) of Section 13 of the principal Act is repealed and paragraphs "(f)" and "(g)" of the same Section are hereby amended as paragraphs "(e)" and "(f)" respectively.

*Section 25 of the principal Act repealed and substituted*

4. Section 25 of the principal Act is hereby repealed and substituted by the following new Section:—

*"Civil suit and legal proceedings"*

25—(1) A suit or other legal proceedings may be instituted and maintainable in any civil court against any registered trade union or any officer or member thereof in respect of any act done in contemplation or in furtherance of a trade dispute.

(2) A suit or other legal proceedings shall not be maintainable in any civil court against any registered trade union or any officer or member thereof on the ground only that an act induces some other person to break a contract of employment, or that it is in interference with the trade, businesses or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills:

Provided however such action has been endorsed by a trade union after first holding a secret ballot conducted in accordance with the provision of any regulation made by the Minister under this Act.

(3) For the purpose of this Section—

- (a) any action taken in breach of the preceding subsection shall be deemed unlawful and shall be an offence punishable under the provisions of this Act; and
- (b) any ballot on a matter listed in clause 13 of the Schedule to the Act shall be null and void if the votes cast in the ballot constitute less than fifty per cent of those entitled to vote.

*Section 26 of the principal Act repealed*

5. Section 26 of the principal Act is hereby repealed.

*Section 31(1) of the principal Act amended*

6. Subsection (1) of Section 31 of the principal Act is amended by removing the colon immediately after the word "union" and before the proviso and inserting the words and expression "or industrial association as defined in the Industrial Associations Act."

*Section 61(3) of the principal Act amended*

7. Subsection (3) of Section 61 of the principal Act is amended by:

- (a) deleting the words and expression "one hundred dollars" on the fourth line and substituting the words and expression "two thousand dollars"; and
- (b) by deleting the words and expression "two dollars" on the fifth line and substituting the words and expression "one hundred dollars".

*Section 62 of the principal Act amended*

8. Section 62 of the principal Act is amended by deleting the words and expression "one hundred dollars" in the ninth line and substituting the words and expression "two thousand dollars".

*Clause 13 of the Schedule amended*

9. Clause 13 of the Schedule to the principal Act is amended by erasing the full stop after "levies" in paragraph "(g)" and substituting a semi-colon and the addition of the following paragraph:  
"(h) all matters relating to requests by unions for solidarity support from any person or organisation outside Fiji."

*Commencement*

10. This Decree shall come into force on the 1st day of November, 1991.

Made the 31st day of October 1991.

INOKE TAKIVEIKATA  
Person appointed to perform the  
functions of the office of the President.