Singapore

Introduction

In Singapore, there is no provision in the law for Works Councils. However, trade unions play a significant role in Singapore in representing employees and in working with the government and employers to promote good industrial relations.

Trade Unions

The General Role Of The Trade Union

The Trade Unions Act of July 1, 1941 (as amended), defines a trade union as an association of workers or employers that aims to regulate relations between workers and employers. The objectives of a trade union are stated as being to promote good industrial relations; to improve workers' working conditions; to enhance the economic and social status of workers; and to raise productivity for the benefit of workers, employers, and the economy.

The majority of trade unions in Singapore are affiliated with the National Trade Union Congress (NTUC), which is a federation of trade unions. Affiliated trade unions are represented at the NTUC Delegates' Conference, which is held once every two years. During this conference, delegates review the work of the NTUC and map out future directions for the labour movement.

Employers can also register trade unions. The largest national employers' association is the Singapore National Employers' Federation (SNEF), with the support of more than 1,900 members. An employer trade union can represent an employer at the Ministry of Manpower in reconciliation matters.

Membership Of Trade Unions

Any employee who is over the age of 16 can be represented by a trade union and has a free choice in deciding whether to join a trade union or not.

Executives are required to form their own trade unions. The Industrial Relations Act of September 15, 1960 (as amended), provides that no trade union of employees, the majority of whose membership consists of employees in non-managerial or

non-executive positions, may seek recognition in respect of employees in managerial or executive positions or serve a notice for collective bargaining in respect of such employees.

An employer can require, as a condition of an appointment or promotion of a person to a managerial or executive position, that the employee shall not continue to be an officer or member of a particular trade union unless membership of that trade union is restricted to employees in managerial or executive positions.

Government employees are generally prohibited from being trade union members unless the President of the Republic of Singapore so allows.

The Scope Of Trade Union Rights In Businesses

Under the Industrial Relations Act, a trade union must be formally recognised by the employer before it can represent the employees in collective bargaining. Collective bargaining agreements determine many of the terms and conditions of service for employees.

In order to become recognised, the trade union must first serve the employer with a claim for recognition. The employer is required, within seven working days after service of the claim, either to give recognition to the trade union or, if the claim is disputed, to notify the Commissioner for Labour in writing of the grounds for not giving recognition. Upon receipt of a notification from an employer, the Commissioner for Labour may inform the employer in writing that a secret ballot is to be conducted. After the secret ballot has been held, the Commissioner for Labour will communicate the results of the secret ballot to the employer and to the trade union. If the results of the ballot show that the majority of the employees are members of the trade union, the employer is required to give recognition to that trade union within three working days following receipt of the ballot results.

Once a trade union has been recognised, it may serve on the employer a notice in the prescribed form inviting the employer to negotiate the terms of a collective agreement. An employer is also entitled to serve a notice of invitation on the trade union inviting it to negotiate. The party served with a notice should formally accept the invitation within seven days after service of the invitation by serving a notice of acceptance. If a notice of acceptance is not served within the time prescribed, the serving party may notify the Commissioner for Labour. The Commissioner will then attempt to persuade the uncooperative party to accept the invitation. If, after

consultation, the Commissioner is satisfied that the party served with the notice refuses to negotiate, the Commissioner shall notify the Minister and the Registrar that a trade dispute exists.

If both parties are willing to negotiate, a collective agreement should be concluded within 14 days after the invitation was issued. Failing that, either party can refer the dispute to the Commissioner for Labour. A conciliation officer will be appointed and the parties will be encouraged to settle the dispute amicably through conciliation. If the parties are still unable to reach an agreement at this stage, the trade union and employer can voluntarily make a joint application to have the matter decided by the Industrial Arbitration Court. Rulings or awards made by the Industrial Arbitration Court are final and binding.

If a trade dispute concerns the payment of an annual wages supplement, an annual bonus or variable payments, or any matter arising out of or in connection with a transfer of employment, then either party can take the dispute to the Industrial Arbitration Court. The Minister of Manpower and the President also have power to direct disputes to the Industrial Arbitration Court for compulsory arbitration. Alternatively, the parties can, in cases of dispute, apply to appoint a referee to hear the dispute. Any party who is dissatisfied with the decision of the referee can then appeal to the Industrial Arbitration Court.

During negotiations of collective agreements, trade unions are usually represented by union officials or full-time industrial relations officers. Employers are usually represented by their industrial relations officers or personnel managers. Lawyers are not permitted to take part in the negotiations.

Some matters cannot be negotiated as they are considered to be within the prerogative of the employer. These matters are set out in the Industrial Relations Act and include:

- The promotion of an employee;
- The internal transfer of an employee on no less favourable terms and conditions of service;
- The right of an employer to hire any person;
- The retrenchment of an employee by reason of redundancy or reorganisation;

- The dismissal and reinstatement of an employee where the employee considers that he or she has been dismissed without just cause or excuse but does not allege victimisation; and,
- The assignment or allocation of duties or specific tasks to an employee that are consistent or compatible with the terms of his or her employment.

Apart from these matters, the parties are free to negotiate all industrial matters, which include matters such as wages, allowances, bonuses, leave, medical and dental benefits, and insurance and retrenchment benefits, subject to the minimum requirements of the Employment Act.

When negotiations have been concluded, the collective agreement must be signed by both parties and sent to the Industrial Arbitration Court for certification within a week from the date of signature. A duly certified collective agreement is binding on the employer and the trade union named in the collective agreement, as well as their respective successors and members.

Enforcement By Trade Unions

In Singapore, trade unions generally do not take industrial action, and strikes have not taken place in Singapore for many years. However, under the Trade Unions Act, a trade union can direct or order its members to conduct strikes or take industrial action in support of a trade dispute if a secret ballot shows that a majority of members affected support such action. However, once a trade dispute has been submitted to the Industrial Arbitration Court, the Trade Disputes Act prohibits a strike. A strike is a stoppage of work or a refusal to work or to accept work by a group of workers in any trade, industry, or occupation.

Strikes and industrial actions are unlawful if they are:

1. In support of a trade dispute that does not involve the striking workers;
2. In support of a trade dispute that has been duly submitted to the Industrial Arbitration Court; or,
3. Intended to put pressure on the government either directly or by making life difficult for the community.

It is an offence for any person to persuade others to take part in or support an illegal industrial action.

In cases of strikes, even though the strike may be lawful, the stoppage of work could amount to a breach of contract and render the employees liable to dismissal.

Employees are allowed to picket under certain circumstances. Picketing is the action of any person who, in support of a trade dispute, places him or herself at or near the home of another person so as to peacefully obtain or give information, or to peacefully persuade or advise another person not to work. Picketing becomes unlawful when the number of persons picketing is so great or when the picketing is carried out in such a way as to cause intimidation, obstruction, or breach of the peace. Furthermore, any assembly of a large group of people or violence resulting from such assembly may amount to unlawful assembly or rioting, which may lead to criminal sanctions.

Tripartism

One of the principal objectives of trade unions is to promote harmonious and peaceful industrial relations. This has been successfully achieved through close collaboration between the government, employers, and trade unions. The three parties jointly deal with difficult manpower and industrial relations problems and formulate appropriate policies to support long-term national objectives. These include the yearly formulation and implementation of the National Wages Council (NWC) guidelines for wage adjustments.

The NWC was set up in 1972, and each year it reviews the state of the economy and advises the government on wage policies and wage guidelines. The NWC is composed of representatives from the government, employers, and trade unions. The NWC recommendations, when accepted by the government, serve as a basis for negotiation between employers and employees or their trade unions.

To tackle increasing retrenchment during the economic crisis in the late 1990s, the Tripartite Panel on Retrenched Workers was set up in February 1998 to advise companies on measures to minimise or avoid the laying off of workers. On the recommendation of the Tripartite Panel, two programmes were implemented, namely the Retrenchment Advisory Programme and the Employment Assistance Programme. Under the Retrenchment Advisory Programme, employers are advised to consider alternatives to retrenchment, which include the implementation of a shorter workweek and temporary layoffs, as well as the upgrading of skills of their workers under the Skills Redevelopment Programme. If retrenchment is unavoidable,

companies are advised on how they can carry out retrenchment exercises responsibly. Under the Employment Assistance Programme, the Ministry of Manpower, together with the NTUC, Community Development Councils, and self-help groups, assists job-seekers in securing employment as soon as possible.

Works Councils

In Singapore, there is no provision in the law for Works Councils.

Trade Union Employee Protection Rights

If an employer tries to dissuade its employees from becoming members or officers of a trade union, its representatives can be fined and/or imprisoned if convicted in the District Court.

The Employment Act of August 15, 1968 (as amended), prohibits employers from seeking, through contracts with their employees, to prevent employees from becoming members or officers of a trade union, from participating in the activities of a registered trade union, or from forming a trade union. Furthermore, an employer that enters into such a contract of service or collective agreement shall be guilty of an offence. However, the Employment Act only applies to employees who are not employed in a managerial, executive, or confidential position.

In addition, the Industrial Relations Act provides that an employer cannot dismiss or discriminate against an employee solely on the ground that the employee is or has the intention of joining a trade union. Any employee who is dismissed on account of his or her membership or proposed membership can, through the relevant trade union, apply to the Industrial Arbitration Court for reinstatement or, alternatively, can bring a civil action against his or her employer in the District Court. An employee who has been discriminated against on account of his or her membership or proposed membership can, through the trade union, apply to the Industrial Arbitration Court for relief. The Industrial Arbitration Court was created in 1960 by the Industrial Relations Ordinance, 1960. It has the same powers as the High Court, and its main function is to deal with trade disputes.

Back to the Table of Contents