



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART I

TRADE UNIONS

CHAPTER I

INTRODUCTORY

Meaning of “trade union”

1 Meaning of “trade union”

In this Act a “trade union” means an organisation (whether temporary or permanent)—

- (a) which consists wholly or mainly of workers of one or more descriptions and whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers' associations; or
- (b) which consists wholly or mainly of—
 - (i) constituent or affiliated organisations which fulfil the conditions in paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or
 - (ii) representatives of such constituent or affiliated organisations, and whose principal purposes include the regulation of relations between workers and employers or between workers and employers' associations, or the regulation of relations between its constituent or affiliated organisations.

The list of trade unions

2 The list of trade unions

- (1) The Certification Officer shall keep a list of trade unions containing the names of—
 - (a) the organisations whose names were, immediately before the commencement of this Act, duly entered in the list of trade unions kept by him under section 8 of the Trade Union and Labour Relations Act 1974, and
 - (b) the names of the organisations entitled to have their names entered in the list in accordance with this Part.
- (2) The Certification Officer shall keep copies of the list of trade unions, as for the time being in force, available for public inspection at all reasonable hours free of charge.
- (3) A copy of the list shall be included in his annual report.
- (4) The fact that the name of an organisation is included in the list of trade unions is evidence (in Scotland, sufficient evidence) that the organisation is a trade union.
- (5) On the application of an organisation whose name is included in the list, the Certification Officer shall issue it with a certificate to that effect.
- (6) A document purporting to be such a certificate is evidence (in Scotland, sufficient evidence) that the name of the organisation is entered in the list.

3 Application to have name entered in the list

- (1) An organisation of workers, whenever formed, whose name is not entered in the list of trade unions may apply to the Certification Officer to have its name entered in the list.
- (2) The application shall be made in such form and manner as the Certification Officer may require and shall be accompanied by—
 - (a) a copy of the rules of the organisation,
 - (b) a list of its officers,
 - (c) the address of its head or main office, and
 - (d) the name under which it is or is to be known,and by the prescribed fee.
- (3) If the Certification Officer is satisfied—
 - (a) that the organisation is a trade union,
 - (b) that subsection (2) has been complied with, and
 - (c) that entry of the name in the list is not prohibited by subsection (4),he shall enter the name of the organisation in the list of trade unions.
- (4) The Certification Officer shall not enter the name of an organisation in the list of trade unions if the name is the same as that under which another organisation—
 - (a) was on 30th September 1971 registered as a trade union under the Trade Union Acts 1871 to 1964,
 - (b) was at any time registered as a trade union or employers' association under the Industrial Relations Act 1971, or
 - (c) is for the time being entered in the list of trade unions or in the list of employers' associations kept under Part II of this Act,

or if the name is one so nearly resembling any such name as to be likely to deceive the public.

4 Removal of name from the list

- (1) If it appears to the Certification Officer, on application made to him or otherwise, that an organisation whose name is entered in the list of trade unions is not a trade union, he may remove its name from the list.
- (2) He shall not do so without giving the organisation notice of his intention and considering any representations made to him by the organisation within such period (of not less than 28 days beginning with the date of the notice) as may be specified in the notice.
- (3) The Certification Officer shall remove the name of an organisation from the list of trade unions if—
 - (a) he is requested by the organisation to do so, or
 - (b) he is satisfied that the organisation has ceased to exist.

Certification as independent trade union

5 Meaning of “independent trade union”

In this Act an “independent trade union” means a trade union which—

- (a) is not under the domination or control of an employer or group of employers or of one or more employers' associations, and
- (b) is not liable to interference by an employer or any such group or association (arising out of the provision of financial or material support or by any other means whatsoever) tending towards such control;

and references to “independence”, in relation to a trade union, shall be construed accordingly.

6 Application for certificate of independence

- (1) A trade union whose name is entered on the list of trade unions may apply to the Certification Officer for a certificate that it is independent.

The application shall be made in such form and manner as the Certification Officer may require and shall be accompanied by the prescribed fee.

- (2) The Certification Officer shall maintain a record showing details of all applications made to him under this section and shall keep it available for public inspection (free of charge) at all reasonable hours.
- (3) If an application is made by a trade union whose name is not entered on the list of trade unions, the Certification Officer shall refuse a certificate of independence and shall enter that refusal on the record.
- (4) In any other case, he shall not come to a decision on the application before the end of the period of one month after it has been entered on the record; and before coming to his decision he shall make such enquiries as he thinks fit and shall take into account any relevant information submitted to him by any person.

- (5) He shall then decide whether the applicant trade union is independent and shall enter his decision and the date of his decision on the record.
- (6) If he decides that the trade union is independent he shall issue a certificate accordingly; and if he decides that it is not, he shall give reasons for his decision.

7 Withdrawal or cancellation of certificate

- (1) The Certification Officer may withdraw a trade union's certificate of independence if he is of the opinion that the union is no longer independent.
- (2) Where he proposes to do so he shall notify the trade union and enter notice of the proposal in the record.
- (3) He shall not come to a decision on the proposal before the end of the period of one month after notice of it was entered on the record; and before coming to his decision he shall make such enquiries as he thinks fit and shall take into account any relevant information submitted to him by any person.
- (4) He shall then decide whether the trade union is independent and shall enter his decision and the date of his decision on the record.
- (5) He shall confirm or withdraw the certificate accordingly; and if he decides to withdraw it, he shall give reasons for his decision.
- (6) Where the name of an organisation is removed from the list of trade unions, the Certification Officer shall cancel any certificate of independence in force in respect of that organisation by entering on the record the fact that the organisation's name has been removed from that list and that the certificate is accordingly cancelled.

8 Conclusive effect of Certification Officer's decision

- (1) A certificate of independence which is in force is conclusive evidence for all purposes that a trade union is independent; and a refusal, withdrawal or cancellation of a certificate of independence, entered on the record, is conclusive evidence for all purposes that a trade union is not independent.
- (2) A document purporting to be a certificate of independence and to be signed by the Certification Officer, or by a person authorised to act on his behalf, shall be taken to be such a certificate unless the contrary is proved.
- (3) A document purporting to be a certified copy of an entry on the record and to be signed by the Certification Officer, or by a person authorised to act on his behalf, shall be taken to be a true copy of such an entry unless the contrary is proved.
- (4) If in any proceedings before a court, the Employment Appeal Tribunal, the Central Arbitration Committee, ACAS or an industrial tribunal a question arises whether a trade union is independent and there is no certificate of independence in force and no refusal, withdrawal or cancellation of a certificate recorded in relation to that trade union—
 - (a) that question shall not be decided in those proceedings, and
 - (b) the proceedings shall instead be stayed or sisted until a certificate of independence has been issued or refused by the Certification Officer.

- (5) The body before whom the proceedings are stayed or sisted may refer the question of the independence of the trade union to the Certification Officer who shall proceed in accordance with section 6 as on an application by that trade union.

Supplementary

9 Appeal against decision of Certification Officer

- (1) An organisation aggrieved by the refusal of the Certification Officer to enter its name in the list of trade unions, or by a decision of his to remove its name from the list, may appeal to the Employment Appeal Tribunal.
- (2) A trade union aggrieved by the refusal of the Certification Officer to issue it with a certificate of independence, or by a decision of his to withdraw its certificate, may appeal to the Employment Appeal Tribunal.
- (3) If on appeal the Tribunal is satisfied that the organisation's name should be or remain entered in the list or, as the case may be, that the certificate should be issued or should not be withdrawn, it shall declare that fact and give directions to the Certification Officer accordingly.
- (4) The rights of appeal conferred by this section extend to any question of fact or law arising in the proceedings before, or arising from the decision of, the Certification Officer.