



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART I

#### TRADE UNIONS

#### CHAPTER IX

##### MISCELLANEOUS AND GENERAL PROVISIONS

##### *Further provisions with respect to ballots*

<sup>F1</sup> 115 .....

#### Textual Amendments

**F1** S. 115 shall cease to have effect (1.4.1996) by virtue of 1993 c. 19, ss. 7(1)(4), 51, Sch. 10

<sup>F2</sup> 116 .....

#### Textual Amendments

**F2** S. 116 shall cease to have effect (1.4.1996) by virtue of 1993 c. 19, ss. 7(1)(4), 51, Sch. 10

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### *[<sup>F3</sup>Union modernisation*

#### **Textual Amendments**

**F3** S. 116A and preceding cross-heading inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), [ss. 55\(1\), 59\(2\)-\(4\)](#); S.I. 2005/872, [art. 4](#), Sch. (with [arts. 6-21](#))

#### **116A Provision of money for union modernisation**

- (1) The Secretary of State may provide money to a trade union to enable or assist it to do any or all of the following—
  - (a) improve the carrying out of any of its existing functions;
  - (b) prepare to carry out any new function;
  - (c) increase the range of services it offers to persons who are or may become members of it;
  - (d) prepare for an amalgamation or the transfer of any or all of its engagements;
  - (e) ballot its members (whether as a result of a requirement imposed by this Act or otherwise).
- (2) No money shall be provided to a trade union under this section unless at the time when the money is provided the union has a certificate of independence.
- (3) Money may be provided in such a way as the Secretary of State thinks fit (whether as grants or otherwise) and on such terms as he thinks fit (whether as to repayment or otherwise).
- (4) If money is provided to a trade union under this section, the terms on which it is so provided shall be deemed to include a prohibition (“a political fund prohibition”) on any of it being added to the political fund of the union.
- (5) If a political fund prohibition is contravened, the Secretary of State—
  - (a) is entitled to recover from the trade union as a debt due to him an amount equal to the amount of money added to the union’s political fund in contravention of the prohibition (whether or not that money continues to form part of the political fund); and
  - (b) must take such steps as are reasonably practicable to recover that amount.
- (6) An amount recoverable under subsection (5) is a liability of the trade union’s political fund.
- (7) Subsection (5) does not prevent money provided to a trade union under this section from being provided on terms containing further sanctions for a contravention of the political fund prohibition.]

#### *Exceptions and adaptations for certain bodies*

#### **117 Special register bodies.**

- (1) In this section a “special register body” means an organisation whose name appeared in the special register maintained under section 84 of the <sup>M1</sup>Industrial Relations Act 1971 immediately before 16 September 1974, and which is a company [<sup>F4</sup>registered under the Companies Act 2006] or is incorporated by charter or letters patent.

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- (2) The provisions of this Part apply to special register bodies as to other trade unions, subject to the following exceptions and adaptations.
- (3) In Chapter II (status and property of trade unions)—
- (a) in section 10 (quasi-corporate status of trade unions)—
    - (i) subsections (1) and (2) (prohibition on trade union being incorporated) do not apply, and
    - (ii) subsection (3) (prohibition on registration under certain Acts) does not apply so far as it relates to registration as a company under [<sup>F5</sup>the Companies Act 2006];
  - (b) section 11 (exclusion of common law rules as to restraint of trade) applies to the purposes or rules of a special register body only so far as they relate to the regulation of relations between employers or employers' associations and workers;
  - (c) sections 12 to 14 (vesting of property in trustees; transfer of securities) do not apply; and
  - (d) in section 20 (liability of trade union in certain proceedings in tort) in subsection (7) the reference to the contract between a member and the other members shall be construed as a reference to the contract between a member and the body.
- (4) Sections 33 to 35 (appointment and removal of auditors) do not apply to a special register body which is registered as a company under [<sup>F6</sup>the Companies Act 2006]; and sections 36 and 37 (rights and duties of auditors) apply to the auditors appointed by such a body under [<sup>F7</sup>Chapter 2 of Part 16 of that Act].
- (5) [<sup>F8</sup>Sections 45B and 45C (disqualification) and Chapter IV (elections) apply only] to—
- (a) the position of voting member of the executive, and
  - (b) any position by virtue of which a person is a voting member of the executive.
- In this subsection “voting member of the executive” has the meaning given by section 46(5).

#### Textual Amendments

- F4** Words in s. 117(1) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 134(3)(a)** (with art. 10)
- F5** Words in s. 117(3)(a)(ii) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 134(3)(b)** (with art. 10)
- F6** Words in s. 117(4) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 134(3)(c)(i)** (with art. 10)
- F7** Words in s. 117(4) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 134(3)(c)(ii)** (with art. 10)
- F8** Words in s. 117(5) substituted (30.8.1993) by [1993 c. 19, s. 49\(2\)](#), **Sch. 8 para.61**; [S.I. 1993/1908](#), art. 2(1), **Sch. 1**

#### Marginal Citations

- M1** [1971 c. 72](#).

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## 118 Federated trade unions.

- (1) In this section a “federated trade union” means a trade union which consists wholly or mainly of constituent or affiliated organisations, or representatives or such organisations, as described in paragraph (b) of the definition of “trade union” in section 1.
- (2) The provisions of this Part apply to federated trade unions subject to the following exceptions and adaptations.
- (3) For the purposes of section 22 (limit on amount of damages) as it applies to a federated trade union, the members of such of its constituent or affiliated organisations as have their head or main office in Great Britain shall be treated as members of the union.
- (4) The following provisions of Chapter III (trade union administration) do not apply to a federated trade union which consists wholly or mainly of representatives of constituent or affiliated organisations—
  - (a) section 27 (duty to supply copy of rules),
  - (b) section 28 (duty to keep accounting records),
  - (c) sections 32 to 37 (annual return, [<sup>F9</sup>statement for members,] accounts and audit), <sup>F10</sup> . . .
  - [<sup>F11</sup>(ca) sections 37A to 37E (investigation of financial affairs), and]
  - (d) sections 38 to 42 (members’ superannuation schemes).
- (5) Sections 29 to 31 (right of member to access to accounting records) do not apply to a federated trade union which has no members other than constituent or affiliated organisations or representatives of such organisations.
- (6) Sections 24 to 26 (register of members’ names and addresses) and Chapter IV (elections for certain trade union positions) do not apply to a federated trade union—
  - (a) if it has no individual members other than representatives of constituent or affiliated organisations, or
  - (b) if its individual members (other than such representatives) are all merchant seamen and a majority of them are ordinarily resident outside the United Kingdom.

For this purpose “merchant seaman” means a person whose employment, or the greater part of it, is carried out on board sea-going ships.

- (7) The provisions of Chapter VI (application of funds for political objects) apply to a trade union which is in whole or part an association or combination of other unions as if the individual members of the component unions were members of that union and not of the component unions.

But nothing in that Chapter prevents a component union from collecting contributions on behalf of the association or combination from such of its members as are not exempt from the obligation to contribute to the political fund of the association or combination.

- [<sup>F12</sup>(8) In the application of section 116A to a federated trade union, subsection (2) of that section shall be omitted.]

### Textual Amendments

- F9** Words in s. 118(4)(c) inserted (1.1.1994) by 1993 c. 19, s. 49(2), **Sch. 8 para. 62(a)**; S.I. 1993/1908, art. 2(3), **Sch.3**

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- F10** Word in s. 118(4)(c) repealed (30.8.1993) by 1993 c. 19, s. 51, **Sch. 10**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F11** S. 118(4)(ca) inserted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para. 62(b)**; S.I. 1993/1908, art. 2(1), **Sch. 1**
- F12** S. 118(8) inserted (6.4.2005) by Employment Relations Act 2004 (c. 24), ss. 55(2), 59(2)-(4); S.I. 2005/872, **art. 4**, **Sch.** (with arts. 6-21)

### Interpretation

#### 119 Expressions relating to trade unions.

In this Act, in relation to a trade union—

[<sup>F13</sup>“agent” means a banker or solicitor of, or any person employed as an auditor by, the union or any branch or section of the union;]

“branch or section”, except where the context otherwise requires, includes a branch or section which is itself a trade union;

“executive” means the principal committee of the union exercising executive functions, by whatever name it is called;

[<sup>F13</sup>“financial affairs” means affairs of the union relating to any fund which is applicable for the purposes of the union (including any fund of a branch or section of the union which is so applicable);]

“general secretary” means the official of the union who holds the office of general secretary or, where there is no such office, holds an office which is equivalent, or (except in section 14(4)) the nearest equivalent, to that of general secretary;

“officer” includes—

- (a) any member of the governing body of the union, and
- (b) any trustee of any fund applicable for the purposes of the union;

“official” means—

- (a) an officer of the union or of a branch or section of the union, or
- (b) a person elected or appointed in accordance with the rules of the union to be a representative of its members or of some of them,

and includes a person so elected or appointed who is an employee of the same employer as the members or one or more of the members whom he is to represent;

“president” means the official of the union who holds the office of president or, where there is no such office, who holds an office which is equivalent, or (except in section 14(4) or Chapter IV) the nearest equivalent, to that of president; and

“rules”, except where the context otherwise requires, includes the rules of any branch or section of the union.

#### Textual Amendments

- F13** Definitions inserted (30.8.1993) by 1993 c. 19, s. 49(2), **Sch. 8 para.63**; S.I. 1993/1908, art. 2(1), **Sch. 1**

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**120 Northern Ireland unions.**

In this Part a “Northern Ireland union” means a trade union whose principal office is situated in Northern Ireland.

**121 Meaning of “the court”.**

In this Part “the court” (except where the reference is expressed to be to the county court or sheriff court) means the High Court or the Court of Session.

**Status:**

Point in time view as at 01/10/2009.

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