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STATUTORY INSTRUMENTS

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**1998 No. 1529**

**DEREGULATION**

**The Deregulation (Deduction from Pay  
of Union Subscriptions) Order 1998**

*Made* - - - - 23rd June 1998  
*Coming into force* - - 23rd June 1998

Whereas:

- (a) the Secretary of State is of the opinion that certain provisions of the Trade Union and Labour Relations (Consolidation) Act 1992<sup>(1)</sup> and which are the subject of this Order impose burdens affecting the carrying on of any trade, business, profession or otherwise and that by amending or repealing the provisions concerned and by making certain other provision it is possible to remove or reduce the burdens without removing any necessary protection;
- (b) she has consulted such organisations as appear to her to be representative of interests substantially affected by her proposals and such other persons as she considers appropriate;
- (c) it appears to the Secretary of State that it is appropriate, following that consultation, to proceed with the making of the Order;
- (d) a document setting out the Secretary of State's proposals has been laid before Parliament as required by section 3 of the Deregulation and Contracting Out Act 1994<sup>(2)</sup> and the period for Parliamentary consideration under section 4 of that Act has expired;
- (e) the Secretary of State has had regard to the representations made during that period;
- (f) a draft of this Order has been laid before Parliament with a statement giving details of those representations and the change to the Secretary of State's proposals in the light of those representations; and
- (g) a draft of this Order has been approved by resolution of each House of Parliament.

Now, therefore, the Secretary of State, in exercise of the powers conferred on her by section 1 of the Deregulation and Contracting Out Act 1994, hereby makes the following Order:—

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(1) 1992 c. 52. sections 68 and 68A were substituted by section 15 of the Trade Union Reform and Employment Rights Act 1993.  
(2) 1994 c. 40.

### **Citation, commencement and extent**

1.—(1) This Order may be cited as the Deregulation (Deduction from Pay of Union Subscriptions) Order 1998 and shall come into force forthwith.

(2) This Order does not extend to Northern Ireland.

### **Amendment of Part I of the Trade Union and Labour Relations (Consolidation) Act 1992**

2.—(1) For section 68 of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) (right not to suffer deduction of unauthorised or excessive subscriptions) there shall be substituted—

#### **“68 Right not to suffer deduction of unauthorised subscriptions**

(1) Where arrangements (“subscription deduction arrangements”) exist between the employer of a worker and a trade union relating to the making from workers' wages of deductions representing payments to the union in respect of the workers' membership of the union (“subscription deductions”), the employer shall ensure that no subscription deduction is made from wages payable to the worker on any day unless—

- (a) the worker has authorised in writing the making from his wages of subscription deductions; and
- (b) the worker has not withdrawn the authorisation.

(2) A worker withdraws an authorisation given for the purposes of subsection (1), in relation to a subscription deduction which falls to be made from wages payable to him on any day, if a written notice withdrawing the authorisation has been received by the employer in time for it to be reasonably practicable for the employer to secure that no such deduction is made.

(3) A worker's authorisation of the making of subscription deductions from his wages shall not give rise to any obligation on the part of the employer to the worker to maintain or continue to maintain subscription deduction arrangements.

(4) In this section and section 68A, “employer”, “wages” and “worker” have the same meanings as in the Employment Rights Act 1996.”

(2) In section 68A of the 1992 Act (complaint of infringement of rights), for subsection (2) there shall be substituted—

“(2) Where a tribunal finds that a complaint under this section is well founded, it shall make a declaration to that effect and shall order the employer to pay to the worker the whole amount of the deduction, less any such part of the amount as has already been paid to the worker by the employer.”

### **Transitional arrangements**

3.—(1) The substitution made by Article 2 does not affect the continued operation of section 68 of the 1992 Act (as substituted by section 15 of the Trade Union Reform and Employment Rights Act 1993) in relation to an authorisation permitting the deduction of trade union subscriptions given before this Order comes into force to an employer by a worker for the purposes of section 68.

Such an authorisation is referred to in this Article as “a preserved authorisation”.

(2) While a preserved authorisation is in force, the worker may be given (whether by the employer or by a person acting on his behalf) a notice in the form set out in the Schedule to this Order that the employer proposes to treat the preserved authorisation as an authorisation given under section 68 as substituted by Article 2 (and so to treat it as being of unlimited duration until withdrawn and as not requiring advance notice of any increase in the amount to be deducted).

(3) If no written notice to the contrary is received by the employer from the worker within the period of 14 days beginning with the day on which the worker received the notice mentioned in paragraph (2), the preserved authorisation shall be treated as if it were an authorisation given under section 68 as substituted by Article 2.

(4) Expressions used in this Article and in section 68 of the Trade Union and Labour Relations (Consolidation) Act 1992 (as substituted by this Order) have the same meanings in this Article as they have in that section.

23rd June 1998

*Ian McCartney*  
Minister of State,  
Department of Trade and Industry

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE

Article 3

### FORM OF NOTICE TO BE GIVEN UNDER ARTICLE 3(2)

#### **DEDUCTION OF TRADE UNION SUBSCRIPTIONS FROM PAY**

Following the coming into force of the Deregulation (Deduction from Pay of Union Subscriptions) Order 1998 you no longer need to re-authorise payments of trade union subscriptions by “check off” (deduction from pay by your employer) every three years and your employer need not give you advance written notice of any increase in the rate of deductions. The law continues to require your written authorisation before check off can start, and you continue to have the right to stop paying by check off at any time, by giving notice in writing to your employer.

**This notice affects you if you pay your union subscriptions by check off and you gave your current authorisation before the date on which the Order came into force.**

If you are content for the new arrangements to apply for you, you need do nothing.

If, however, you wish the previous arrangements to continue to apply to you, you must give notice to that effect in writing to your employer at [*name and address of employer*] within 14 days of receiving this notice.

If you do so, your current authorisation will expire three years after you gave it, but any subsequent authorisation will be subject to the new arrangements.

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#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order substitutes section 68 and amends section 68A of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”), as substituted by the Trade Union Reform and Employment Rights Act 1993.

Under section 68 of the 1992 Act, employers must ensure that no deduction of trade union subscriptions direct from pay is made unless the worker concerned has given his or her written authorisation. Article 2 of the Order removes the restrictions whereby such authorisations remain valid for a maximum period of three years, and employers may not increase the amount to be deducted unless they have given written notice at least a month in advance to the worker affected. Section 68A, which makes provision for complaints that section 68 has been contravened, is amended accordingly.

Article 3 of the Order makes transitional provision for authorisations given under section 68 before the coming into force of the Order. It provides that such authorisations will be treated as given under section 68 as amended by the Order if the employer of the worker concerned gives the worker a notice to that effect (in the form set out in the Schedule to the Order), and the worker does not give notice to the contrary within fourteen days of receiving it.