
STATUTORY INSTRUMENTS

1992 No. 807

The Industrial Relations (Northern Ireland) Order 1992

PART II

DEFINITION, STATUS AND GENERAL REGULATION OF TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

Property

Property of trade unions and unincorporated employers' associations

7.—(1) Sections 38 and 39 of the Trustee Act (Northern Ireland) 1958^{F1} (vesting of property on retirement of trustee or appointment of new trustee) shall, in their application to trustees in whom any property is vested in trust for a trade union or an unincorporated employers' association to which this paragraph applies, each have effect as if for any reference to a deed there were substituted a reference to an instrument in writing and as if in subsection (4) of section 39 of the said Act of 1958 paragraphs (a) and (c) were omitted.

(2) Paragraph (1) applies to a trade union and to an unincorporated employers' association whose name is (in either case) for the time being entered in the list of trade unions or of employers' associations under Article 5.

(3) An instrument in writing appointing a new trustee of a trade union or unincorporated employers' association to which paragraph (1) applies is referred to in this Article as an “instrument of appointment” and an instrument in writing discharging a trustee of such a union or association is referred to as an “instrument of discharge”; and for the purposes of this Article (and the sections of the Act of 1958 applied by paragraph (1)), where a trustee of such a union or association is appointed or discharged by a resolution taken by or on behalf of the union or association, the written record of the resolution shall be treated as if it were the instrument in writing appointing or, as the case may be, discharging that trustee.

(4) Where by any statutory provision the transfer of securities of any description is required to be effected or recorded by means of entries in a register, then, if—

- (a) there is produced to the person who is authorised or required to keep the register, a copy of an instrument of appointment or of an instrument of discharge which contains or has attached to it a list identifying the securities of that description held in trust for the union or association to which the instrument relates at the date of the appointment or discharge; and
- (b) it appears to that person that any of the securities so identified are included in the register kept by him,

he shall, notwithstanding anything in [^{F2}section 126 or 770 of the Companies Act 2006] or any other statutory provision regulating the keeping of the register, make such entries as may be necessary to give effect to the instrument of appointment or of discharge.

(5) A document which purports to be a copy of an instrument of appointment or of an instrument of discharge containing or having attached to it such a list and to be certified to be a copy of such

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Property is up to date with all changes known to be in force on or before 16 March 2023. There are
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content and are referenced with annotations. (See end of Document for details) View outstanding changes

an instrument in accordance with paragraph (6) shall be taken to be a copy of such an instrument unless the contrary is proved.

(6) The certificate referred to in paragraph (5) shall be given by the president and general secretary of the union or association to which the instrument relates and, in the case of an instrument to which the list of securities is attached, shall appear both on the instrument and on the list.

(7) Nothing done for the purposes of or in pursuance of paragraph (4) shall be taken to affect any person with notice of any trust or to impose on any person a duty to inquire into any matter.

F1 1958 c.23 (NI)

F2 Words in art. 7(4) substituted (1.10.2009) by [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 136(4)** (with art. 10)

Use of trade union funds for indemnifying unlawful conduct

8.—(1) It shall be unlawful for any of the property of a trade union to be applied—

- (a) in or towards the payment for any individual, or securing the payment for any individual, of any penalty which has been or may be imposed on him for a relevant offence or for contempt of court; or
- (b) in or towards the provision of anything for indemnifying any individual in respect of any penalty which has been or may be imposed on him for any such offence or for contempt of court.

(2) Where any property of a trade union is applied in contravention of paragraph (1) for the benefit of a particular individual on whom a penalty has been or may be imposed—

- (a) in the case of a payment, an amount equal to the amount of the payment shall be recoverable by the union from that individual; and
- (b) in the case of an application of property otherwise than by the making of a payment, that individual shall be liable to account to the union for the value of the property.

(3) A member of a trade union who claims that a failure by that union to bring or continue any proceedings by virtue of paragraph (2) is unreasonable may apply to the High Court for an authorisation under this paragraph; and where, on such an application, the High Court is satisfied that the failure is unreasonable, the court may make an order authorising the applicant to bring or continue the proceedings on the union's behalf and at the union's expense.

(4) In this Article—

“penalty”, in relation to a relevant offence, includes an order to pay compensation and an order for the forfeiture of any property, and references to the imposition of a penalty for an offence shall be construed accordingly;

“relevant offence” means any offence other than an offence for the time being designated by order made by the Department as an offence in relation to which this Article does not apply.

(5) Paragraph (1) shall be without prejudice to any statutory provision, rule of law or provision of the rules of a trade union which, apart from this Article, makes it unlawful for the property of a trade union to be applied in a particular way; and paragraphs (2) and (3) shall be without prejudice to any remedy available otherwise than under this Article to a trade union, the trustees of its property or any of its members in respect of any unlawful application of the union's property.

(6) In this Article and Article 9 “member” in relation to a trade union consisting wholly or partly of, or of representatives of, constituent or affiliated organisations, includes any member of any of the constituent or affiliated organisations.

Remedy against trustees of trade union for unlawful use of property

9.—(1) Subject to paragraph (2), a member of a trade union who claims that the trustees of the union's property—

- (a) have so carried out their functions, or are proposing so to carry out their functions, as to cause or permit any unlawful application of the union's property; or
- (b) have complied, or are proposing to comply, with any unlawful direction which has been or may be given, or purportedly given, to them under the rules of the union,

may apply to the High Court for an order under this Article.

(2) A person shall not be entitled to make an application under paragraph (1) in a case relating to property which has already been unlawfully applied or to an unlawful direction that has already been complied with, unless he was a member of the union at the time when the property was applied or, as the case may be, the direction complied with.

(3) Subject to paragraph (4), where, on an application under paragraph (1), the High Court is satisfied that the claim is well-founded, the court shall make such order as it considers appropriate; and, without prejudice to the generality of its powers under this paragraph, the powers of the court on such an application shall include—

- (a) power to require the trustees of a trade union (if necessary, on behalf of the union) to take all such steps as may be specified in the order for protecting or recovering the property of the union;
- (b) power to appoint a receiver of the property of a trade union;
- (c) power to remove one or more of the trustees of any such property; and
- (d) power to grant any such interlocutory relief as it considers appropriate.

(4) Where the High Court makes an order under this Article—

- (a) in a case in which property of a trade union has been applied in contravention of the order of any court or in compliance with any direction given in contravention of the order of any court; or
- (b) in a case in which the trustees in question were proposing to apply property in contravention of the order of any court or to comply with any direction the giving of which was or, as the case may be, would have been in contravention of the order of any court,

the order of the court under this Article shall remove all the trustees except any trustee who satisfies the court that there is a good reason for allowing him to remain a trustee.

(5) This Article shall be without prejudice to any remedy available otherwise than under this Article in respect of any breach of trust by the trustees of a trade union's property.

Changes to legislation:

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Changes and effects yet to be applied to :

- Instrument excl by [1994 c. 33 s. 127\(8\)](#)
- Instrument restr (pt retrospect) by [1994 c. 33 s. 126\(1\)s. 126\(2\)\(b\)\(4\)](#)