
STATUTORY INSTRUMENTS

1992 No. 807

The Industrial Relations (Northern Ireland) Order 1992

PART IV

RIGHTS OF TRADE UNION MEMBERS

Right not to be unreasonably excluded or expelled from trade union membership

29.—(1) This Article applies to employment by an employer with respect to which it is the practice, in accordance with a union membership agreement, for the employee to belong to a specified trade union or one of a number of specified trade unions.

(2) Every person who is, or is seeking to be, in employment to which this Article applies shall have the right—

- (a) not to have an application for membership of a specified trade union unreasonably refused;
- (b) not to be unreasonably expelled from a specified trade union.

(3) The rights conferred by paragraph (2) are in addition to and not in substitution for any right which exists apart from that paragraph; and, without prejudice to any remedy for infringement of any such other right, the remedies for infringement of a right conferred by that paragraph shall be those provided by the following provisions of this Article and Article 30.

(4) A complaint may be presented to an industrial tribunal against a trade union by a person that an application by him for membership of the union has been unreasonably refused, or that he has been unreasonably expelled from the union, in contravention of paragraph (2).

(5) On a complaint under this Article, the question whether a trade union has acted reasonably or unreasonably shall be determined in accordance with equity and the substantial merits of the case, and in particular a union shall not be regarded as having acted reasonably only because it has acted in accordance with the requirements of its rules or unreasonably only because it has acted in contravention of them.

(6) A tribunal shall not entertain a complaint under this Article unless it is presented to the tribunal before the end of the period of six months beginning with the date of the refusal or expulsion, as the case may be, or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of six months.

(7) Where a tribunal finds that a complaint under this Article is well-founded, the tribunal shall make a declaration to that effect.

(8) Without prejudice to Article 31 of the Industrial Training (Northern Ireland) Order 1984⁽¹⁾ (appeal to Court of Appeal on a point of law), an appeal shall lie to the High Court on any question of fact arising from any decision of, or arising in any proceedings before, an industrial tribunal under this Article.

(9) For the purposes of this Article and Article 30—

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- (a) if an application for membership of a trade union has been neither granted nor rejected before the end of the period within which it might reasonably have been expected to be granted if it was to be granted, the application shall be treated as having been refused on the last day of that period; and
- (b) if under the rules of a trade union any person ceases to be a member of the union on the happening of an event specified in the rules, he shall be treated as having been expelled from the union.

(10) In this Article “union membership agreement” has the same meaning as in the No. 1 Order and any reference in this Article or Article 30 to a trade union includes a reference to a branch or section of a trade union.

(11) Any provision in an agreement shall be void in so far as it purports to exclude or limit the operation of, or to preclude any person from presenting a complaint or making an application under, this Article or Article 30; but this paragraph shall not apply to an agreement to refrain from instituting or continuing proceedings where the Agency has taken action in accordance with Article 62(2) or (5) of the No. 1 Order.

Compensation for infringement of right under Article 29

30.—(1) A person who has made a complaint against a trade union under Article 29 which has been declared to be well-founded may make an application to an industrial tribunal for an award of compensation to be paid to him by the union.

(2) An industrial tribunal shall not entertain an application for compensation under this Article if it is made before the end of the period of four weeks beginning with the date of the declaration under Article 29 or after the end of the period of six months beginning with that date.

(3) Subject to the following provisions of this Article, the amount of compensation awarded on an application under this Article—

- (a) if at the time when the application is made the applicant has been admitted or re-admitted to membership of the union against which he made the complaint, shall be such as the tribunal considers appropriate for the purpose of compensating the applicant for the loss sustained by him in consequence of the refusal or expulsion which was the subject of his complaint; and
- (b) if at that time he has not been so admitted or re-admitted, shall be such as the tribunal considers just and equitable in all the circumstances.

(4) In determining the amount of compensation to be awarded under this Article, the industrial tribunal shall apply the same rule concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law of Northern Ireland.

(5) Where the industrial tribunal finds that the refusal or expulsion which was the subject of the applicant’s complaint was to any extent caused or contributed to by any action of the applicant, it shall reduce the amount of the compensation by such proportion as it considers just and equitable having regard to that finding.

(6) Subject to paragraph (8), the amount of compensation awarded by an industrial tribunal under paragraph (3)(a) shall not exceed the aggregate of—

- (a) an amount equal to thirty times the limit for the time being imposed by Article 35(4) of the No. 1 Order (maximum amount of a week’s pay for purpose of calculating basic award in unfair dismissal cases); and
- (b) an amount equal to the limit for the time being imposed by Article 37 of that Order (maximum compensatory award in such cases).

(7) Subject to paragraph (8), the amount of compensation awarded by an industrial tribunal under paragraph (3)(b) shall not exceed the aggregate of—

- (a) the amount referred to in paragraph (6)(a);
- (b) the amount referred to in paragraph (6)(b); and
- (c) an amount equal to fifty-two times the limit for the time being imposed by Article 32(8) of the No. 1 Order (maximum amount of a week's pay for purpose of calculating additional award of compensation in unfair dismissal cases),

and shall not be less than the amount for the time being specified in Article 34(5A) of that Order (minimum basic award in certain cases of unfair dismissal).

(8) In determining the amount of any compensation to be awarded against a trade union on an application under this Article, any reduction or increase which is required to be made by virtue of paragraph (6) or (7) shall be made—

- (a) before any reduction is made by virtue of paragraph (4) or (5); and
- (b) before any reduction is made on account of sums already paid by the union by way of compensation in respect of the subject matter of the application;

and, accordingly, where the case so requires, the reductions mentioned in sub-paragraphs (a) and (b) shall be applied to the maximum or, as the case may be, minimum award under paragraph (6) or (7).

Right to terminate membership of trade union

31. In every contract of membership of a trade union, whether made before or after the appointed day, there shall be implied a term conferring a right on the member, on giving reasonable notice and complying with any reasonable conditions, to terminate his membership of the union.

Right to a ballot before industrial action

32.—(1) A member of a trade union who claims that the union has, without the support of a ballot, authorised or endorsed any industrial action in which members of the union (including that member) are likely to be, or have been, induced by the union to take part or to continue to take part may apply to the High Court for an order under this Article.

- (2) Where, on an application under this Article, the High Court is satisfied—
 - (a) that a trade union has, without the support of a ballot, authorised or endorsed any industrial action;
 - (b) that (whether or not the action has already commenced) members of the union are likely to be, or have been, induced by the union to take part or to continue to take part in that action; and
 - (c) that the members of the union who are likely to be, or have been, so induced include the applicant,

the court shall make such order as it considers appropriate for requiring the union to take steps (including the withdrawal of any relevant authorisation or endorsement) for ensuring that there is no, or no further, inducement of members of the union to take part or to continue to take part in that action and that no such member engages in any conduct after the making of the order by virtue of having been induced before the making of the order to take part or to continue to take part in the action.

(3) For the purposes of this Article a trade union has authorised or endorsed any industrial action if there has been—

- (a) such an authorisation or endorsement of an act which has been done for inducing any member of the union to take part or to continue to take part in that action; or
- (b) such an authorisation of any proposed act for inducing such a member to take part or to continue to take part in that action,

as requires that member, or if the act were done would require that member, to be treated for the purposes of this Article as induced by the union to take part or, as the case may be, to continue to take part in that action.

(4) For the purposes of this Article a person shall be treated as induced by a trade union to take part or to continue to take part in any industrial action if he is subjected to such an inducement to take part or to continue to take part in that action as is or (if it constituted an inducement to break a contract of employment or to interfere with the performance of such a contract) would be taken, for the purposes of any such proceedings as are mentioned in Article 21(1) to have been done by the union.

(5) For the purposes of an application under this Article an authorisation or endorsement by a trade union of any industrial action is without the support of a ballot unless—

- (a) the trade union has held one or more ballots in respect of that action;
- (b) the applicant has been accorded entitlement to vote in the ballot or, as the case may be, in one of them;
- (c) Article 45 has been satisfied in relation to the ballot in which the applicant was accorded entitlement to vote;
- (d) the majority voting in that ballot have answered “Yes”—
 - (i) in the case of action which consists in a strike, to a question (however framed) which requires the person answering it to say, by answering “Yes” or “No”, whether he is prepared to take part or, as the case may be, to continue to take part in a strike;
 - (ii) in the case of action which consists in action short of a strike, to a question (however framed) which requires the person answering it to say, by answering “Yes” or “No”, whether he is prepared to take part or, as the case may be, to continue to take part in such action;
 - (iii) in the case of action which consists in action to which both of the questions mentioned in heads (i) and (ii) are applicable, to the question or questions applicable to that part of the action in which the applicant is likely to be, or has been, induced to take part or to continue to take part; and
- (e) the first authorisation or endorsement of that industrial action and, in the case of any action which has been authorised rather than endorsed, the commencement of the action occurred or is likely to occur at a time after the date on which that ballot was held and before the end of the period of four weeks beginning with that date.

(6) Without prejudice to any power conferred on the High Court otherwise than by virtue of this Article, the court shall have power, on an application under this Article, to grant any such interlocutory relief as it considers appropriate.

(7) In this Article references to an inducement, in relation to a member of a trade union, include references to an inducement which is or would be ineffective, whether because of that member’s unwillingness to be influenced by it or for any other reason.

(8) In this Article and the following provisions of this Part “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.

(9) In this Article “industrial action” means any strike or other industrial action by persons employed under contracts of employment.

(10) Nothing in this Article shall be construed as requiring a trade union to hold separate ballots for the purposes of this Article and for the purposes of Part VI.

Right not to be denied access to the courts, etc.

33.—(1) Notwithstanding anything in the rules of any trade union or in the practice of any court, where—

- (a) a person who is or has been a member of a trade union commences proceedings in any court with respect to any relevant matter;
- (b) that person has previously made a valid application to the union for that matter to be submitted for determination or conciliation in accordance with the union's rules; and
- (c) those proceedings are commenced after the end of the period of six months beginning with the day on which the union received the application,

the rules requiring or allowing that matter to be so submitted and the fact that any steps remain to be taken for the purposes of, or in connection with, the determination or conciliation of that matter shall be regarded for all purposes as irrelevant to any question whether those proceedings should be dismissed, stayed or adjourned.

(2) If a court is satisfied in any proceedings with respect to any relevant matter that any delay in the taking of steps for the purposes of, or in connection with, the determination or conciliation of that matter in accordance with the rules of any trade union was attributable to the unreasonable conduct of the person who commenced the proceedings, the court may, in relation to those proceedings, treat the period of six months specified in sub-paragraph (c) of paragraph (1) as extended by such further period as the court considers appropriate.

(3) Where any person has made an invalid application to a trade union for any relevant matter to be submitted for determination or conciliation in accordance with the union's rules, the application shall be deemed to be valid for the purposes of paragraph (1) unless the union informs that person, before the end of the period of twenty-eight days beginning with the day on which the union received the application, of all the respects in which the application contravened the requirements of those rules.

(4) For the purposes of this Article a matter is a relevant matter, in relation to a person who is or has been a member of a trade union, if—

- (a) it is required or allowed under the rules of the union to be submitted for determination or conciliation in accordance with those rules; and
- (b) a provision of the rules purporting to provide for such a determination or conciliation to be that person's only remedy in respect of that matter has no effect or, as the case may be, would have no effect if there were one.

(5) In this Article—

- (a) references, in relation to a trade union, to its rules include references to any arbitration or other agreement entered into in pursuance of any requirement imposed by or under the rules of the union; and
- (b) references to the taking of steps for the purposes of, or in connection with, the determination or conciliation of any matter which has been submitted for determination or conciliation in accordance with the rules of a trade union include references to the taking of any steps for the purposes of, or in connection with, any appeal, review or reconsideration under those rules of any determination or award made on that submission.

(6) This Article shall be without prejudice to any statutory provision or rule of law by virtue of which a court would, apart from this Article, disregard any rules of a trade union, or any such fact as is mentioned in paragraph (1), when determining whether to exercise any jurisdiction of the court or when determining how to exercise any such jurisdiction.

Right not to be unjustifiably disciplined

34.—(1) An individual who is or has at any time been a member of a trade union shall have the right not to be unjustifiably disciplined by that union.

(2) For the purposes of this Article and Articles 35 and 36 an individual who is disciplined by a trade union is unjustifiably disciplined if the actual or supposed conduct which constitutes the reason, or one of the reasons, for disciplining him is—

- (a) conduct falling within paragraph (3); or
 - (b) something which is believed by the union to amount to any such conduct.
- (3) Conduct by an individual falls within this paragraph if—
- (a) it consists in a failure to participate in or support any strike or other industrial action (whether by members of the trade union in question or by others) or indicates opposition to, or a lack of support for, any such strike or industrial action;
 - (b) it consists in a failure to contravene, for any purpose connected with any such strike or other industrial action, any requirement imposed on that individual by or under a contract of employment or any other agreement between that individual and a person for whom he works or normally works;
 - (c) it consists in the making (whether by the bringing of proceedings or otherwise) of any assertion that the union, any official or representative of the union or any trustee of any of the union's property has contravened, or is proposing to contravene, any requirement which is, or is thought to be, imposed by or under the rules of the union or any other agreement or by or under any statutory provision (including this Order) or rule of law;
 - (d) it consists in encouraging or assisting any person to perform an obligation imposed on that person by a contract of employment or any other agreement between that person and a person for whom he works or normally works or to make or to attempt to vindicate any such assertion as is mentioned in sub-paragraph (c);
 - (e) it involves the Commissioner or the Certification Officer being consulted or asked to provide advice or assistance with respect to any matter whatever or involves any other person being consulted or asked to provide advice or assistance with respect to a matter which forms, or might form, the subject matter of any such assertion as is mentioned in sub-paragraph (c);
 - (f) it consists in a contravention of any requirement imposed by or in consequence of any determination constituting an infringement of the right under this Article of that individual or of any other individual; or
 - (g) it consists in proposing to engage in conduct falling within any of sub-paragraphs (a) to (f) or in doing anything preparatory or incidental to engaging in any such conduct;

but an act or statement by any individual does not fall within this paragraph by reason of its being comprised in conduct falling within any of sub-paragraphs (a) to (g) if it is shown that that act or statement is one in respect of which individuals would be disciplined by the union irrespective of whether their acts or statements were in connection with conduct falling within any of sub-paragraphs (a) to (f).

(4) An individual who has been disciplined by a trade union shall not be treated for the purposes of this Article and Articles 35 and 36 as having been unjustifiably disciplined if it is shown—

- (a) that the reason or one of the reasons for disciplining him was that he made any such assertion as is mentioned in paragraph (3)(c) or encouraged or assisted any other person to make or to attempt to vindicate any such assertion;

- (b) that that assertion was false and that, in making it or, as the case may be, in encouraging or assisting any other person to make or to attempt to vindicate it, that individual acted either in the belief that it was false or otherwise in bad faith; and
- (c) that there was no other reason for disciplining him or that the only other reasons were reasons in respect of which he does not fall to be treated for those purposes as having been unjustifiably disciplined.

(5) For the purposes of this Article and Articles 35 and 36 an individual is disciplined by a trade union if a determination is made, or purportedly made, under the rules of the union or is made by an official of the union or by a number of persons including such an official—

- (a) that that individual should be expelled from the union or from any branch or section of the union;
- (b) that that individual should pay any sum to the union, to any branch or section of the union or to any other person whatever;
- (c) that sums tendered by that individual in respect of any obligation to pay subscriptions or other sums to the union, or to any branch or section of the union, should be treated as unpaid or as paid for a different purpose;
- (d) that that individual should be deprived (whether indefinitely or for a specified period and whether in all circumstances or only in particular circumstances) of, or of access to, any of the benefits, services or facilities which would otherwise be provided or made available to him by virtue of his membership of the union, or of any branch or section of the union;
- (e) that another trade union, or a branch or section of another trade union, should be encouraged or advised not to accept that individual as a member; or
- (f) that that individual should be subjected to any other detriment.

(6) In this Article “representative”, in relation to a trade union, means any person acting or purporting to act—

- (a) in his capacity as a member of the union; or
- (b) on the instructions or advice of a person acting or purporting to act in that capacity or in the capacity of an official of the union.

(7) The right conferred by this Article is in addition to (and not in substitution for) any right which exists otherwise than by virtue of this Article; and, without prejudice to any remedy for the infringement of any such other right and subject to paragraph (8), the only remedies for any infringement of the right conferred by this Article shall be those provided by Articles 35 and 36.

(8) Where a determination made in infringement of any individual’s right under this Article requires the payment of any sum or the performance of any other obligation, no person shall be entitled in any proceedings to rely on that determination for the purpose of recovering that sum or of enforcing that obligation.

Complaint of infringement of right under Article 34

35.—(1) An individual who claims that he has been unjustifiably disciplined by a trade union may present a complaint against the union to an industrial tribunal that his right under Article 34 has been infringed.

(2) A tribunal shall not entertain a complaint presented by any individual against a trade union under this Article unless it is presented to the tribunal before the end of the period of three months beginning with the date of the making of the determination which the individual claims constituted an infringement of his right or within such further period as the tribunal considers reasonable in a case where it is satisfied as to one or both of the matters mentioned in paragraph (3).

(3) The matters referred to in paragraph (2) are—

- (a) that it was not reasonably practicable for the complaint to be presented before the end of the period of three months; and
- (b) that any delay in the making of the complaint is wholly or partly attributable to any reasonable attempt, otherwise than under this Article, to appeal against the determination to which the complaint relates or to have that determination reconsidered or reviewed.

(4) Where, on a complaint presented by any individual against a trade union under this Article, the tribunal finds that that individual has been unjustifiably disciplined by that union, the tribunal shall make a declaration that the complaint is well-founded.

(5) Where an individual who is, or is seeking to be, in employment to which Article 29 applies is refused membership of, or is expelled from, a trade union in pursuance of a determination which constitutes an infringement of his right under Article 34—

- (a) that individual shall not be entitled to present any complaint under this Article in respect of that determination; but
 - (b) the refusal or expulsion shall be regarded as unreasonable for the purposes of Article 29.
- (6) Any provision in an agreement shall be void in so far as it purports—
- (a) to exclude or limit the right conferred by Article 34 or the operation of this Article or Article 36; or
 - (b) to preclude any individual from presenting a complaint under this Article or from making an application under Article 36,

but this paragraph shall not apply to an agreement to refrain from instituting or continuing proceedings where the Agency has taken action in accordance with Article 62(2) or (5) of the No. 1 Order.

Further remedies for infringement of right under Article 34

36.—(1) An individual whose complaint against a trade union under Article 35 has been declared to be well-founded may make an application to an industrial tribunal for one or both of the following, that is to say—

- (a) an award of compensation to be paid to him by the union; and
- (b) an order that the union pay to him an amount equal to any sum which he has paid in pursuance of a determination falling within paragraph (5)(b) of Article 34.

(2) An industrial tribunal shall not entertain an application under this Article if it is made before the end of the period of four weeks beginning with the date of the declaration under Article 35 or after the end of the period of six months beginning with that date.

(3) Subject to the following provisions of this Article, the amount of compensation awarded on an application under this Article shall be such as the industrial tribunal considers just and equitable in all the circumstances.

(4) In determining the amount of compensation to be awarded under this Article, the industrial tribunal shall apply the same rule concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law of Northern Ireland.

(5) Where the industrial tribunal finds that the infringement which is the subject matter of the application was to any extent caused or contributed to by any action of the applicant, it shall reduce the amount of the compensation by such proportion as it considers just and equitable having regard to that finding.

(6) The amount of compensation awarded against a trade union on an application under this Article shall not exceed the aggregate of—

- (a) an amount equal to thirty times the limit for the time being imposed by Article 35(4) of the No. 1 Order (maximum amount of a week's pay for purpose of calculating basic award in unfair dismissal cases); and
- (b) an amount equal to the limit for the time being imposed by Article 37 of that Order (maximum compensatory award in such cases),

and, in the case of an application to which paragraph (7) applies shall not be less than the amount for the time being specified in Article 34(5A) of that Order (minimum basic award in certain cases of unfair dismissal).

(7) This paragraph applies to an application under this Article if at the time when the application is made—

- (a) the determination constituting the infringement of the applicant's right under Article 34 has not been revoked; or
- (b) the trade union in question has failed to take all such steps as are necessary for securing the reversal of anything done for the purpose of giving effect to that determination.

(8) In determining the amount of any compensation to be awarded against a trade union on an application under this Article any reduction or increase which is required to be made by virtue of paragraph (6) shall be made—

- (a) before any reduction is made by virtue of paragraph (4) or (5); and
- (b) before any reduction is made on account of sums already paid by the union by way of compensation in respect of the determination to which the application relates or in respect of anything done for the purpose of giving effect to that determination;

and, accordingly, where the case so requires, the reductions mentioned in sub-paragraphs (a) and (b) shall be applied to the maximum or, as the case may be, minimum award under paragraph (6).

Right to inspect union's accounting records

37.—(1) It shall be the duty of a trade union to keep its accounting records available for inspection in pursuance of this Article from their creation until the end of the period of six years beginning with the 1st January following the end of the period to which the records relate.

(2) Where—

- (a) at a time when a trade union is required under paragraph (1) to keep any accounting records available for inspection, any person who is a member of the union makes a request to the union to be allowed access to any of those records; and
- (b) none of the records that are the subject matter of the request relates to a period other than one which includes a time when that person was a member of the union,

it shall be the duty of the union to comply with the request in accordance with paragraph (3) and, if the period mentioned in paragraph (1) expires before the request is complied with, to continue to keep those records available for inspection by that person until the request is complied with.

(3) The trade union shall perform its duty to comply with a request under paragraph (2)—

- (a) by making arrangements with the person who made the request for that person to be allowed, before the end of the period of twenty-eight days beginning with the day on which the request was made, to inspect the records which are the subject matter of the request;
- (b) by allowing that person and any accountant who may accompany him for the purpose to inspect those records at the time and place arranged; and
- (c) by securing that at the time of the inspection that person is allowed to take, or is supplied with, such copies of, or of extracts from, any records inspected by him as he may require.

(4) Except where the parties to any arrangements made under paragraph (3) otherwise agree, an inspection under any such arrangements of any accounting records shall be at a reasonable hour and at the place where the records are normally kept.

(5) A trade union shall not be required to allow a person inspecting any accounting records under this Article to be accompanied by an accountant if the accountant fails to enter into such agreement as the union may reasonably require for protecting the confidentiality of the records.

(6) Where—

- (a) a trade union complies with a request made by any person under paragraph (2); and
- (b) that person had been informed by the union, before any arrangements were made in pursuance of that request—
 - (i) of the union's intention to charge for allowing that person to inspect the records to which the request relates, for allowing that person to take any copies of, or of extracts from, those records or for supplying any such copies; and
 - (ii) of the principles in accordance with which its charges will be determined,

that person shall be liable to pay to the union on demand such amount, not exceeding the reasonable administrative expenses incurred by the union in complying with the request, as is determined in accordance with the principles of which that person was so informed.

(7) Any person who claims that a trade union has failed in any respect to comply with a request made by that person under paragraph (2) may apply to the High Court for an order under this Article; and where, on such an application, the court is satisfied that a trade union has failed to comply with any such request, the court shall make such order as it considers appropriate for ensuring that that person—

- (a) is allowed to inspect the records which are the subject matter of the request;
- (b) is allowed to be accompanied by an accountant when making an inspection of those records; and
- (c) is allowed to take, or is supplied with, such copies of, or of extracts from, those records as he may require.

(8) Without prejudice to any power conferred on the High Court otherwise than by virtue of this Article, the court shall have power, on an application under this Article, to grant any such interlocutory relief as it considers appropriate.

(9) Article 13 shall apply in relation to the duties to keep accounting records available for inspection which are imposed on trade unions by paragraphs (1) and (2) as it applies in relation to the duties imposed on trade unions by Articles 10, 11 and 12.

(10) In this Article—

- (a) references to accounting records, in relation to a trade union, are references to such of the documentary and non-documentary accounting records of that union, or of any branch or section of that union, as are, or purport to be, records which are required to be kept by the union under Article 10 and which relate to any period beginning after 31st December 1991;
- (b) references to a trade union do not include references to a trade union falling within sub-paragraph (b) of Article 3(1) which consists wholly of constituent or affiliated organisations, of representatives of such organisations or of such organisations together with representatives of constituent or affiliated organisations; and
- (c) references to an accountant, in relation to the inspection of any accounting records, are references to any person who, at the time of the inspection, is qualified under paragraph 6 of Schedule 1 to be the auditor of a trade union.

(11) Nothing in this Article shall be construed as preventing a duty to comply with a request made in relation to the accounting records of a branch or section of a trade union from arising where

the request is made by a person who, although he was a member of the union at the time of his request and at a time during the period to which the records relate, was not a member of that branch or section at one or both of those times.

Right to require employer to stop deductions of union subscriptions

38.—(1) Where any person (“the employee”) has certified to his employer—

- (a) that there has been or will be, as from a particular date, such a termination of his membership of any trade union as is within the knowledge of the union; or
- (b) that any notice which he has given to a trade union for the purpose of terminating his membership of that union has expired or will expire on a particular date,

the employer shall ensure that no amount representing a payment to the union in respect of the employee’s membership after that date of that union is deducted from emoluments payable by the employer to the employee.

(2) Paragraph (1) does not apply in relation to emoluments paid—

- (a) before the first day following the giving of the certificate on which it is reasonably practicable for the employer to give effect, in compliance with that paragraph, to a variation of the net amount of emoluments payable to the employee; or
- (b) after the employee notifies his employer that the certificate is withdrawn.

(3) Notwithstanding anything in any contract between the employee and the employer, or in any agreement or consent signified by the employee, a deduction made in contravention of this Article shall in all cases be treated for the purposes of Part II of the Wages (Northern Ireland) Order 1988(2) as a deduction in contravention of Article 3 of that Order.