



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART I

TRADE UNIONS

CHAPTER II

STATUS AND PROPERTY OF TRADE UNIONS

General

10 Quasi-corporate status of trade unions

- (1) A trade union is not a body corporate but—
 - (a) it is capable of making contracts;
 - (b) it is capable of suing and being sued in its own name, whether in proceedings relating to property or founded on contract or tort or any other cause of action; and
 - (c) proceedings for an offence alleged to have been committed by it or on its behalf may be brought against it in its own name.
- (2) A trade union shall not be treated as if it were a body corporate except to the extent authorised by the provisions of this Part.
- (3) A trade union shall not be registered—
 - (a) as a company under the Companies Act 1985, or
 - (b) under the Friendly Societies Act 1974 or the Industrial and Provident Societies Act 1965;and any such registration of a trade union (whenever effected) is void.

11 Exclusion of common law rules as to restraint of trade

- (1) The purposes of a trade union are not, by reason only that they are in restraint of trade, unlawful so as—
 - (a) to make any member of the trade union liable to criminal proceedings for conspiracy or otherwise, or
 - (b) to make any agreement or trust void or voidable.
- (2) No rule of a trade union is unlawful or unenforceable by reason only that it is in restraint of trade.

*Property of trade union***12 Property to be vested in trustees**

- (1) All property belonging to a trade union shall be vested in trustees in trust for it.
- (2) A judgment, order or award made in proceedings of any description brought against a trade union is enforceable, by way of execution, diligence, punishment for contempt or otherwise, against any property held in trust for it to the same extent and in the same manner as if it were a body corporate.
- (3) Subsection (2) has effect subject to section 23 (restriction on enforcement of awards against certain property).

13 Vesting of property in new trustees

- (1) The provisions of this section apply in relation to the appointment or discharge of trustees in whom any property is vested in trust for a trade union whose name is entered in the list of trade unions.
- (2) In the following sections as they apply to such trustees references to a deed shall be construed as references to an instrument in writing—
 - (a) section 39 of the Trustee Act 1925 and section 38 of the Trustee Act (Northern Ireland) 1958 (retirement of trustee without a new appointment), and
 - (b) section 40 of the Trustee Act 1925 and section 39 of the Trustee Act (Northern Ireland) 1958 (vesting of trust property in new or continuing trustees).
- (3) Where such a trustee is appointed or discharged by a resolution taken by or on behalf of the union, the written record of the resolution shall be treated for the purposes of those sections as an instrument in writing appointing or discharging the trustee.
- (4) In section 40 of the Trustee Act 1925 and section 39 of the Trustee Act (Northern Ireland) 1958 as they apply to such trustees, paragraphs (a) and (c) of subsection (4) (which exclude certain property from the section) shall be omitted.

14 Transfer of securities held in trust for trade union

- (1) In this section—

“instrument of appointment” means an instrument in writing appointing a new trustee of a trade union whose name is entered in the list of trade unions, and

“instrument of discharge” means an instrument in writing discharging a trustee of such a trade union;

and for the purposes of this section where a trustee is appointed or discharged by a resolution taken by or on behalf of such a trade union, the written record of the resolution shall be treated as an instrument in writing appointing or discharging the trustee.

(2) Where by any enactment or instrument 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 authorised or required to keep the register a copy of an instrument of appointment or discharge which contains or has attached to it a list identifying the securities of that description held in trust for the union 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 make such entries as may be necessary to give effect to the instrument of appointment or discharge.

This subsection has effect notwithstanding anything in any enactment or instrument regulating the keeping of the register.

(3) A document which purports to be a copy of an instrument of appointment or discharge containing or having attached to it such a list, and to be certified in accordance with the following subsection to be a copy of such an instrument, shall be taken to be a copy of such an instrument unless the contrary is proved.

(4) The certificate shall be given by the president and general secretary of the union and, in the case of an instrument to which a list of securities is attached, shall appear both on the instrument and on the list.

(5) Nothing done for the purposes of or in pursuance of this section 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.

(6) In relation to a Scottish trust, references in this section to the appointment and discharge of a trustee shall be construed as including references to, respectively, the assumption and resignation of a trustee; and references to an instrument appointing or discharging a trustee shall be construed accordingly.

15 Prohibition on use of funds to indemnify unlawful conduct

(1) It is unlawful for property of a trade union to be applied in or towards—

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

(2) Where any property of a trade union is so applied for the benefit of an individual on whom a penalty has been or may be imposed, then—

- (a) in the case of a payment, an amount equal to the payment is recoverable by the union from him, and

Status: This is the original version (as it was originally enacted).

- (b) in any other case, he is liable to account to the union for the value of the property applied.
- (3) If a trade union fails to bring or continue proceedings which it is entitled to bring by virtue of subsection (2), a member of the union who claims that the failure is unreasonable may apply to the court on that ground for an order authorising him to bring or continue the proceedings on the union's behalf and at the union's expense.
- (4) In this section "penalty", in relation to an 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.
- (5) The Secretary of State may by order designate offences in relation to which the provisions of this section do not apply.

Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) This section does not affect—
 - (a) any other enactment, any rule of law or any provision of the rules of a trade union which makes it unlawful for the property of a trade union to be applied in a particular way; or
 - (b) any other remedy available to a trade union, the trustees of its property or any of its members in respect of an unlawful application of the union's property.
- (7) In this section "member", in relation to a trade union consisting wholly or partly of, or of representatives of, constituent or affiliated organisations, includes a member of any of the constituent or affiliated organisations.

16 Remedy against trustees for unlawful use of union property

- (1) 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 an unlawful application of the union's property, or
 - (b) have complied, or are proposing to comply, with an unlawful direction which has been or may be given, or purportedly given, to them under the rules of the union,
 may apply to the court for an order under this section.
- (2) In a case relating to property which has already been unlawfully applied, or to an unlawful direction that has already been complied with, an application under this section may be made only by a person who 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) Where the court is satisfied that the claim is well-founded, it shall make such order as it considers appropriate.

The court may in particular—

- (a) require the trustees (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) appoint a receiver of, or in Scotland a judicial factor of, the property of the union;

- (c) remove one or more of the trustees.
- (4) Where the court makes an order under this section in a case in which—
 - (a) property of the union has been applied in contravention of an order of any court, or in compliance with a direction given in contravention of such an order, or
 - (b) the trustees were proposing to apply property in contravention of such an order or to comply with any such direction,
 the court shall by its order 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) Without prejudice to any other power of the court, the court may on an application for an order under this section grant such interlocutory relief (in Scotland, such interim order) as it considers appropriate.
- (6) This section does not affect any other remedy available in respect of a breach of trust by the trustees of a trade union's property.
- (7) In this section “member”, in relation to a trade union consisting wholly or partly of, or of representatives of, constituent or affiliated organisations, includes a member of any of the constituent or affiliated organisations.

17 Nominations by members of trade unions

- (1) The Secretary of State may make provision by regulations for enabling members of trade unions who are not under 16 years of age to nominate a person or persons to become entitled, on the death of the person making the nomination, to the whole or part of any money payable on his death out of the funds of the trade union.
- (2) The regulations may include provision as to the manner in which nominations may be made and as to the manner in which nominations may be varied or revoked.
- (3) The regulations may provide that, subject to such exceptions as may be prescribed, no nomination made by a member of a trade union shall be valid if at the date of the nomination the person nominated is an officer or employee of the trade union or is otherwise connected with the trade union in such manner as may be prescribed by the regulations.
- (4) The regulations may include such incidental, transitional or supplementary provisions as the Secretary of State may consider appropriate.
- (5) They may, in particular, include provision for securing, to such extent and subject to such conditions as may be prescribed in the regulations, that nominations made under the Trade Union Act 1871 Amendment Act 1876 have effect as if made under the regulations and may be varied or revoked accordingly.
- (6) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

18 Payments out of union funds on death of member

- (1) The Secretary of State may make provision by regulations for enabling money payable out of the funds of a trade union on the death of a member, to an amount not exceeding £5,000, to be paid or distributed on his death without letters of administration, probate of any will or confirmation.

Status: This is the original version (as it was originally enacted).

- (2) The regulations may include such incidental, transitional and supplementary provisions as the Secretary of State may consider appropriate.
- (3) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The Treasury may by order under section 6(1) of the Administration of Estates (Small Payments) Act 1965 direct that subsection (1) above shall have effect with the substitution for the reference to £5,000 of a reference to such higher amount as may be specified in the order.

19 Application of certain provisions relating to industrial assurance or friendly societies

- (1) The following provisions apply to a trade union as to an industrial assurance company—
 - (a) section 6(1) of the Industrial Assurance and Friendly Societies Act 1948 (prohibition on insuring money to be paid on death of child under ten);
 - (b) sections 63 to 66 of the Friendly Societies Act 1896 and section 4(2) of the Industrial Assurance Act 1923 (conditions on which payments to be made), so far as they apply to cases excepted from that prohibition by paragraph (c) of the proviso to section 6(1) (children not ordinarily resident in United Kingdom or the Isle of Man).
- (2) A trade union which contravenes section 6(1) of the Industrial Assurance and Friendly Societies Act 1948 commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

The provisions of the Friendly Societies Act 1974 as to offences under that Act apply to an offence under this subsection.

- (3) Section 52 of the Friendly Societies Act 1974 (charitable subscriptions and contributions to other registered societies) extends to a trade union, or branch of a trade union, as regards contributing to the funds and taking part in the government of a medical society, that is, a society for the purpose of relief in sickness by providing medical attendance and medicine.
- A trade union, or branch of a trade union, shall not withdraw from contributing to the funds of such a society except on three months notice to the society and on payment of all contributions accrued or accruing due to the date of the expiry of the notice.

Liability of trade unions in proceedings in tort

20 Liability of trade union in certain proceedings in tort

- (1) Where proceedings in tort are brought against a trade union—
 - (a) on the ground that an act—
 - (i) induces another person to break a contract or interferes or induces another person to interfere with its performance, or
 - (ii) consists in threatening that a contract (whether one to which the union is a party or not) will be broken or its performance interfered with, or that the union will induce another person to break a contract or interfere with its performance, or

- (b) in respect of an agreement or combination by two or more persons to do or to procure the doing of an act which, if it were done without any such agreement or combination, would be actionable in tort on such a ground,
- then, for the purpose of determining in those proceedings whether the union is liable in respect of the act in question, that act shall be taken to have been done by the union if, but only if, it is to be taken to have been authorised or endorsed by the trade union in accordance with the following provisions.
- (2) An act shall be taken to have been authorised or endorsed by a trade union if it was done, or was authorised or endorsed—
- (a) by any person empowered by the rules to do, authorise or endorse acts of the kind in question, or
 - (b) by the principal executive committee or the president or general secretary, or
 - (c) by any other committee of the union or any other official of the union (whether employed by it or not).
- (3) For the purposes of paragraph (c) of subsection (2)—
- (a) any group of persons constituted in accordance with the rules of the union is a committee of the union; and
 - (b) an act shall be taken to have been done, authorised or endorsed by an official if it was done, authorised or endorsed by, or by any member of, any group of persons of which he was at the material time a member, the purposes of which included organising or co-ordinating industrial action.
- (4) The provisions of paragraphs (b) and (c) of subsection (2) apply notwithstanding anything in the rules of the union, or in any contract or rule of law, but subject to the provisions of section 21 (repudiation by union of certain acts).
- (5) Where for the purposes of any proceedings an act is by virtue of this section taken to have been done by a trade union, nothing in this section shall affect the liability of any other person, in those or any other proceedings, in respect of that act.
- (6) In proceedings arising out of an act which is by virtue of this section taken to have been done by a trade union, the power of the court to grant an injunction or interdict includes power to require the union to take such steps as the court considers appropriate for ensuring—
- (a) that there is no, or no further, inducement of persons to take part or to continue to take part in industrial action, and
 - (b) that no person engages in any conduct after the granting of the injunction or interdict by virtue of having been induced before it was granted to take part or to continue to take part in industrial action.
- The provisions of subsections (2) to (4) above apply in relation to proceedings for failure to comply with any such injunction or interdict as they apply in relation to the original proceedings.
- (7) In this section “rules”, in relation to a trade union, means the written rules of the union and any other written provision forming part of the contract between a member and the other members.

21 Repudiation by union of certain acts

- (1) An act shall not be taken to have been authorised or endorsed by a trade union by virtue only of paragraph (c) of section 20(2) if it was repudiated by the executive,

Status: This is the original version (as it was originally enacted).

president or general secretary as soon as reasonably practicable after coming to the knowledge of any of them.

- (2) Where an act is repudiated—
 - (a) written notice of the repudiation must be given to the committee or official in question, without delay, and
 - (b) the union must do its best to give individual written notice of the fact and date of repudiation, without delay—
 - (i) to every member of the union who the union has reason to believe is taking part, or might otherwise take part, in industrial action as a result of the act, and
 - (ii) to the employer of every such member.
- (3) The notice given to members in accordance with paragraph (b)(i) of subsection (2) must contain the following statement—

“Your union has repudiated the call (or calls) for industrial action to which this notice relates and will give no support to unofficial industrial action taken in response to it (or them). If you are dismissed while taking unofficial industrial action, you will have no right to complain of unfair dismissal.”
- (4) If subsection (2) or (3) is not complied with, the repudiation shall be treated as ineffective.
- (5) An act shall not be treated as repudiated if at any time after the union concerned purported to repudiate it the executive, president or general secretary has behaved in a manner which is inconsistent with the purported repudiation.
- (6) The executive, president or general secretary shall be treated as so behaving if, on a request made to any of them within six months of the purported repudiation by a person who—
 - (a) is a party to a commercial contract whose performance has been or may be interfered with as a result of the act in question, and
 - (b) has not been given written notice by the union of the repudiation,
 it is not forthwith confirmed in writing that the act has been repudiated.
- (7) In this section “commercial contract” means any contract other than—
 - (a) a contract of employment, or
 - (b) any other contract under which a person agrees personally to do work or perform services for another.

22 Limit on damages awarded against trade unions in actions in tort

- (1) This section applies to any proceedings in tort brought against a trade union, except—
 - (a) proceedings for personal injury as a result of negligence, nuisance or breach of duty;
 - (b) proceedings for breach of duty in connection with the ownership, occupation, possession, control or use of property;
 - (c) proceedings brought by virtue of Part I of the Consumer Protection Act 1987 (product liability).
- (2) In any proceedings in tort to which this section applies the amount which may awarded against the union by way of damages shall not exceed the following limit—

<i>Number of members of union</i>	<i>Maximum award of damages</i>
Less than 5,000	£10,000
5,000 or more but less than 25,000	£50,000
25,000 or more but less than 100,000	£125,000
100,000 or more	£250,000

(3) The Secretary of State may by order amend subsection (2) so as to vary any of the sums specified; and the order may make such transitional provision as the Secretary of State considers appropriate.

(4) Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this section—

“breach of duty” means breach of a duty imposed by any rule of law or by or under any enactment;

“personal injury” includes any disease and any impairment of a person’s physical or mental condition; and

“property” means any property, whether real or personal (or in Scotland, heritable or moveable).

Restriction on enforcement against certain property

23 Restriction on enforcement of awards against certain property

(1) Where in any proceedings an amount is awarded by way of damages, costs or expenses—

- (a) against a trade union,
- (b) against trustees in whom property is vested in trust for a trade union, in their capacity as such (and otherwise than in respect of a breach of trust on their part), or
- (c) against members or officials of a trade union on behalf of themselves and all of the members of the union,

no part of that amount is recoverable by enforcement against any protected property.

(2) The following is protected property—

- (a) property belonging to the trustees otherwise than in their capacity as such;
- (b) property belonging to any member of the union otherwise than jointly or in common with the other members;
- (c) property belonging to an official of the union who is neither a member nor a trustee;
- (d) property comprised in the union’s political fund where that fund—
 - (i) is subject to rules of the union which prevent property which is or has been comprised in the fund from being used for financing strikes or other industrial action, and
 - (ii) was so subject at the time when the act in respect of which the proceedings are brought was done;

Status: This is the original version (as it was originally enacted).

- (e) property comprised in a separate fund maintained in accordance with the rules of the union for the purpose only of providing provident benefits.
- (3) For this purpose “provident benefits” includes—
- (a) any payment expressly authorised by the rules of the union which is made—
 - (i) to a member during sickness or incapacity from personal injury or while out of work, or
 - (ii) to an aged member by way of superannuation, or
 - (iii) to a member who has met with an accident or has lost his tools by fire or theft;
 - (b) a payment in discharge or aid of funeral expenses on the death of a member or the wife of a member or as provision for the children of a deceased member.