



# Trade Union and Labour Relations (Consolidation) Act 1992

## 1992 CHAPTER 52

### PART I

#### TRADE UNIONS

#### CHAPTER VII

##### AMALGAMATIONS AND SIMILAR MATTERS

##### *Amalgamation or transfer of engagements*

#### **97 Amalgamation or transfer of engagements**

- (1) Two or more trade unions may amalgamate and become one trade union, with or without a division or dissolution of the funds of any one or more of the amalgamating unions, but shall not do so unless—
  - (a) the instrument of amalgamation is approved in accordance with section 98, and
  - (b) the requirements of sections 99 and 100 (notice to members and passing of resolution) are complied with in respect of each of the amalgamating unions.
- (2) A trade union may transfer its engagements to another trade union which undertakes to fulfil those engagements, but shall not do so unless—
  - (a) the instrument of transfer is approved in accordance with section 98, and
  - (b) the requirements of sections 99 and 100 (notice to members and passing of resolution) are complied with in respect of the transferor union.
- (3) An amalgamation or transfer of engagements does not prejudice any right of any creditor of any trade union party to the amalgamation or transfer.

- (4) The above provisions apply to every amalgamation or transfer of engagements notwithstanding anything in the rules of any of the trade unions concerned.

### **98 Approval of instrument of amalgamation or transfer**

- (1) The instrument of amalgamation or transfer must be approved by the Certification Officer and shall be submitted to him for approval before the resolution to approve it is voted on by members of any amalgamating union or, as the case may be, of the transferor union.
- (2) The instrument must comply with the requirements of any regulations in force under this Chapter and the Certification Officer shall approve it if he is satisfied that it does so.

### **99 Notice to be given to members**

- (1) The trade union shall take all reasonable steps to secure that, not less than seven days before voting begins on the resolution to approve the instrument of amalgamation or transfer, every member of the union is supplied with a notice in writing approved for the purpose by the Certification Officer.
- (2) The notice shall be in writing and shall either—
- (a) set out in full the instrument of amalgamation or transfer to which the resolution relates, or
  - (b) give an account of it sufficient to enable those receiving the notice to form a reasonable judgment of the main effects of the proposed amalgamation or transfer.
- (3) If the notice does not set out the instrument in full it shall state where copies of the instrument may be inspected by those receiving the notice.
- (4) The notice shall also comply with the requirements of any regulations in force under this Chapter.
- (5) The notice proposed to be supplied to members of the union under this section shall be submitted to the Certification Officer for approval; and he shall approve it if he is satisfied that it meets the requirements of this section.

### **100 Resolution approving instrument of amalgamation or transfer**

- (1) A resolution approving the instrument of amalgamation or transfer must be passed on a vote taken in a manner which satisfies the following conditions—
- (a) every member of the union must be entitled to vote on the resolution;
  - (b) every member of the union must be allowed to vote without interference or constraint and must, so far as is reasonably possible, be given a fair opportunity of voting;
  - (c) the method of voting must involve the marking of a voting paper by the person voting.
- (2) The committee of management or other governing body of the union may arrange for the vote to be taken in any manner which that body thinks fit.

This subsection does not apply if the rules of the trade union expressly provide that it is not to apply in relation to that union.

- (3) A simple majority of the votes recorded is sufficient to pass the resolution, whether the vote is taken under arrangements made under subsection (2) or under the rules of the union.

This subsection does not apply if the rules of the trade union expressly provide that it is not to apply in relation to that union.

- (4) The provisions of subsections (2) and (3) have effect, where they apply, notwithstanding anything in the rules of the trade union and, in particular, notwithstanding anything in those rules which would require the resolution—
- (a) to be passed by a majority greater than a simple majority, or
  - (b) to be voted on by not less than a specified proportion of the members of the union.

### **101 Registration of instrument of amalgamation or transfer**

- (1) An instrument of amalgamation or transfer shall not take effect before it has been registered by the Certification Officer under this Chapter.
- (2) It shall not be so registered before the end of the period of six weeks beginning with the date on which an application for its registration is sent to the Certification Officer.

### **102 Power to alter rules of transferee union for purposes of transfer**

- (1) Where a trade union proposes to transfer its engagements to another trade union and an alteration of the rules of the transferee union is necessary to give effect to provisions in the instrument of transfer, the committee of management or other governing body of that union may by memorandum in writing alter the rules of that union so far as is necessary to give effect to those provisions.

This subsection does not apply if the rules of the trade union expressly provide that this section is not to apply to that union.

- (2) An alteration of the rules of a trade union under subsection (1) shall not take effect unless or until the instrument of transfer takes effect.
- (3) The provisions of subsection (1) have effect, where they apply, notwithstanding anything in the rules of the union.

### **103 Complaints as regards passing of resolution**

- (1) A member of a trade union which passes or purports to pass a resolution approving an instrument of amalgamation or transfer may complain to the Certification Officer on one or more of the following grounds—
- (a) that section 99 (notice to be given to members) was not complied with;
  - (b) that the manner in which the vote on the resolution was taken did not satisfy the conditions specified in section 100(1);
  - (c) where that vote was taken under arrangements made under section 100(2), that the manner in which it was taken was not in accordance with the arrangements;

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

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- (d) where that vote was taken under provisions in the rules of the union, that the manner in which it was taken was not in accordance with those rules;
  - (e) that the votes recorded did not have the effect of passing the resolution.
- (2) Any complaint must be made before the end of the period of six weeks beginning with the date on which an application for registration of the instrument of amalgamation or transfer is sent to the Certification Officer.

Where a complaint is made, the Certification Officer shall not register the instrument before the complaint is finally determined or is withdrawn.

- (3) If the Certification Officer, after giving the complainant and the trade union an opportunity of being heard, finds the complaint to be justified—
- (a) he shall make a declaration to that effect, and
  - (b) he may make an order specifying the steps which must be taken before he will entertain any application to register the instrument of amalgamation or transfer;

and where he makes such an order, he shall not entertain any application to register the instrument unless he is satisfied that the steps specified in the order have been taken.

An order under this subsection may be varied by the Certification Officer by a further order.

- (4) The Certification Officer shall furnish a statement, orally or in writing, of the reasons for his decision on a complaint under this section.
- (5) The validity of a resolution approving an instrument of amalgamation or transfer shall not be questioned in any legal proceedings whatsoever (except proceedings before the Certification Officer under this section or proceedings arising out of such proceedings) on any ground on which a complaint could be, or could have been, made to the Certification Officer under this section.

#### **104 Appeal from decision of Certification Officer**

An appeal lies to the Employment Appeal Tribunal, at the instance of the complainant or the trade union, on any question of law arising in any proceedings before, or arising from any decision of, the Certification Officer under section 103.

#### **105 Transfer of property on amalgamation or transfer**

- (1) Where an instrument of amalgamation or transfer takes effect, the property held—
- (a) for the benefit of any of the amalgamating unions, or for the benefit of a branch of any of those unions, by the trustees of the union or branch, or
  - (b) for the benefit of the transferor trade union, or for the benefit of a branch of the transferor trade union, by the trustees of the union or branch,
- shall without any conveyance, assignment or assignation vest, on the instrument taking effect, or on the appointment of the appropriate trustees, whichever is the later, in the appropriate trustees.
- (2) In the case of property to be held for the benefit of a branch of the amalgamated union, or of the transferee union, “the appropriate trustees” means the trustees of that branch, unless the rules of the amalgamated or transferee union provide that the property to be so held is to be held by the trustees of the union.

- (3) In any other case “the appropriate trustees” means the trustees of the amalgamated or transferee union.
- (4) This section does not apply—
  - (a) to property excepted from the operation of this section by the instrument of amalgamation or transfer, or
  - (b) to stocks and securities in the public funds of the United Kingdom or Northern Ireland.

#### **106 Amalgamation or transfer involving Northern Ireland union**

- (1) This Chapter has effect subject to the following modifications in the case of an amalgamation or transfer of engagements to which a trade union and a Northern Ireland union are party.
- (2) The requirements of sections 98 to 100 (approval of instrument; notice to members; passing of resolution) do not apply in relation to the Northern Ireland union; but the Certification Officer shall not register the instrument under section 101 unless he is satisfied that it will be effective under the law of Northern Ireland.
- (3) The instrument of amalgamation or transfer submitted to the Certification Officer for his approval under section 98 shall state which of the bodies concerned is a Northern Ireland union and, in the case of an amalgamation, whether the amalgamated body is to be a Northern Ireland union; and the Certification Officer shall withhold his approval if the instrument does not contain that information.
- (4) Nothing in section 102 (alteration of rules) or section 103 (complaint as to passing of resolution) applies in relation to the Northern Ireland union.
- (5) Subject to the exceptions specified above, the provisions of this Chapter as to amalgamations or transfers of engagements apply in relation to the Northern Ireland union.