Draft Regulations laid before Parliament under section 116B(9) of the Trade Union and Labour Relations (Consolidation) Act 1992, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2017 No.

EMPLOYMENT
TRADE UNIONS

The Trade Union (Deduction of Union Subscriptions from Wages in the Public Sector) Regulations 2017

Made - - - -	***
Coming into force - -	*10th March 2018*

The Minister makes the following Regulations in exercise of the powers conferred by section 116B(3), (5) and (7)(c) of the Trade Union and Labour Relations (Consolidation) Act 1992(**1**).

In accordance with section 116B(9) of that Act, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Trade Union (Deduction of Union Subscriptions from Wages in the Public Sector) Regulations 2017 and come into force on 10th March 2018.

(2) In these Regulations "the 1992 Act" means the Trade Union and Labour Relations (Consolidation) Act 1992.

Crown employees: person or entity treated as an employer

2. For the purposes of section 116B of the 1992 Act, a public authority that is an emanation of the Crown is to be treated as the employer of a person who is employed by the Crown under or for the purposes of that authority.

Relevant public sector employer

3.—(1) Subject to paragraph (3), a public authority referred to in paragraph (2) is a relevant public sector employer for the purposes of section 116B of the 1992 Act.

(**1**) 1992 c. 52. Section 116B was inserted by section 15 of the Trade Union Act 2016 (c.15).

(2) The public authorities are—

(a) any department of the Government of the United Kingdom (excluding the Secret Intelligence Service, the Security Service and the Government Communications Headquarters);

(b) the Scottish Ministers; and

(c) an authority listed, or of a description, in the Schedule.

(3) An authority of a description in the Schedule which is a devolved Welsh authority is not a relevant public sector employer for the purposes of section 116B.

(4) In paragraph (3), "devolved Welsh authority" has the same meaning as in section 157A of the Government of Wales Act 2006(**2**) (inserted into that Act by section 4 of the Wales Act 2017(**3**)).

Consequential provision

4.—(1) This regulation applies where, immediately before the coming into force of section 116B(1) of the 1992 Act, a contract of employment or collective agreement contains provision that permits or requires a relevant public sector employer to make deductions from its workers' wages in respect of trade union subscriptions.

(2) After the coming into force of section 116B(1), the contract or agreement is to be treated as containing a prohibition on making a deduction unless to do so is consistent with section 116B(1).

(3) This regulation does not affect any rights or obligations arising in connection with things done or omissions made before the coming into force of section 116B(1) or the enforcement of those rights and obligations.

Name
Minister for the Cabinet Office
Cabinet Office

Date

(**2**) 2006 c. 32.
(**3**) 2017 c. 4.

SCHEDULE Regulation 3

Public authorities

PART 1

Local Authorities

1. A local authority within the meaning of the Local Government Act 1972(**4**).

2. The Council of the Isles of Scilly.

3. The Common Council of the City of London.

4. The Greater London Authority as established under section 1 of the Greater London Authority Act 1999(**5**).

5. An economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009(**6**).

6. A combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.

7. A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**7**).

8. A joint board, within the meaning of section 235(1) of the Local Government (Scotland) Act 1973(**8**).

9. A fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(**9**) or a scheme to which section 4 of that Act applies.

10. A joint fire authority established under Part 4 of the Local Government Act 1985 (police, fire services, civil defence and transport)(**10**).

11. Any body established pursuant to an order under section 67 of the Local Government Act 1985 (successors to residuary bodies).

12. The London Fire and Emergency Planning Authority as reconstituted by section 328 of the Greater London Authority Act 1999(**11**).

13. The Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005(**12**).

14. An internal drainage board which is being continued by virtue of section 1 of the Land Drainage Act 1991(**13**).

15. Transport for London as established under section 154 of the Greater London Authority Act 1999(**14**).

(**4**) 1972 c.70.
(**5**) 1999 c.29.
(**6**) 2009 c.20.
(**7**) 1994 c.39.
(**8**) 1973 c.65.
(**9**) 2004 c.21.
(**10**) 1985 c.51.
(**11**) 1999 c.29.
(**12**) 2005 asp 5. Section 1A was inserted by the Police and Fire Reform (Scotland) Act 2012 (asp 8), section 101(1).
(**13**) 1991 c.59; section 1(1) was amended by Water Act 2014 c.21, Schedule 10, paragraph 4.
(**14**) 1999 c.29.

16. The London Transport Users' Committee as established under section 247 of the Greater London Authority Act 1999.

17. A Passenger Transport Executive for an integrated transport area or a passenger transport area within the meaning of Part 2 of the Transport Act 1968(**15**).

18. The Passengers' Council as established by section 19 of the Railways Act 2005(**16**).

19. A Transport Partnership established under section 1 of the Transport (Scotland) Act 2005(**17**).

20. A sub-national transport body established under section 102E of the Local Transport Act 2008(**18**).

21. A National Park Authority established by an order under section 63 of the Environment Act 1995(**19**).

22. A National Park Authority established by virtue of Schedule 1 to the National Parks (Scotland) Act 2000(**20**).

23. The Broads Authority established by section 1 of the Norfolk and Suffolk Broads Act 1988(**21**).

24. A Conservation Board established under section 86 of the Countryside and Rights of Way Act 2000(**22**).

PART 2

The National Health Service

25. A clinical commissioning group established under section 14D of the National Health Service Act 2006(**23**).

26. A National Health Service Foundation Trust established under section 35 of the National Health Service Act 2006(**24**).

27. A National Health Service Trust established under section 25 of the National Health Service Act 2006.

28. A special health authority established under section 28 of the National Health Service Act 2006 or section 22 of the National Health Service (Wales) Act 2006(**25**).

29. The Common Services Agency for the Scottish Health Service established under section 10 of the National Health Service (Scotland) Act 1978(**26**).

30. A Health Board, or Special Health Board, constituted under section 2 of the National Health Service (Scotland) Act 1978(**27**).

(**15**) 1968 c.73.
(**16**) 2005 c.14.
(**17**) 2005 asp 12.
(**18**) 2008 c.26. Section 102E was inserted by Cities and Local Government Devolution Act 2016 (c. 1), section 21.
(**19**) 1995 c.25.
(**20**) 2000 asp 10.
(**21**) 1988 c.4.
(**22**) 2000 c.37.
(**23**) 2006 c.41. Section 14D was inserted by the Health and Social Care Act 2012 c.7, section 25(1).
(**24**) Section 35 is prospectively repealed by the Health and Social Care Act 2012 c7, section 180.
(**25**) 2006 c. 42.
(**26**) 1978 c.29. Section 10(1) was amended by of the Health Services Act 1980 (c.59), Schedule 6, paragraph 2 and the Public Bodies (Joint Working) Act 2014 (asp 9), section 63(2)(a).
(**27**) 1978 c.29. Section 2(1)(a) was amended by the Smoking Health and Social Care (Scotland) Act 2005 (asp 13), Schedule 2, paragraph 2(2), the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 7, paragraph 1,

31. Healthcare Improvement Scotland established under section 10A of the National Health Service (Scotland) Act 1978(**28**).

32. The National Health Service Commissioning Board established under section 1H of the National Health Service Act 2006(**29**).

33. Monitor.

PART 3

Maintained Schools and other Educational Institutions

34. The governing body of a foundation school, voluntary aided school or foundation special school.

35. The proprietor (as defined in section 579(1) of the Education Act 1996(**30**)) of—

(a) an Academy school within the meaning of section 1A of the Academies Act 2010(**31**);

(b) a 16 to 19 Academy within the meaning of section 1B of that Act;

(c) an alternative provision Academy within the meaning of section 1C of that Act.

36. The governing body (as defined in section 90 of the Further and Higher Education Act 1992(**32**)) of—

(a) an institution in the further education sector within the meaning of section 91(3) and (3A) of that Act(**33**);

(b) an institution conducted by a higher education corporation within the meaning of section 90(1) of that Act;

(c) a designated institution for the purposes of Part 2 of that Act, as defined by section 72(3) of that Act.

37. A university, including any college, school, hall or other institution of that university, receiving financial support under section 65 of the Further and Higher Education Act 1992(**34**).

38. A manager (as defined by section 135 of the Education (Scotland) Act 1980(**35**)) of a central institution within the meaning of that Act.

39. The governing body (as defined by section 35 of the Further and Higher Education (Scotland) Act 2005(**36**)) of an institution in receipt of funding from the Scottish Further and Higher Education Funding Council or a regional strategic body within the meaning of that Act.

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and the National Health Service Reform Act 2004 (asp 7) Schedule 1, paragraph 1(2)(a). Section 2(1)(b) was inserted by the National Health Service and Community Care Act 1990 (c.19), section 28(a)(ii).

(**28**) 1978 c.29. Section 10A was inserted by the Public Services Reform (Scotland) Act 2010 (asp 8), section 108.

(**29**) Section 1H was inserted by the Health and Social Care Act 2012 (c.7), section 9. The National Health Service Commissioning Board is known as NHS England.

(**30**) 1996 c.56.

(**31**) 2010 c.32; sections 1A, 1B and 1C inserted by Education Act 2011 (c.21), section 53(7).

(**32**) 1992 c.13; section 91(3) was amended by and 91(3A) was inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), Schedule 8, paragraphs 1 and 13(1), (2) and (3).

(**33**) Section 91 was amended by the Apprenticeships, Skills, Children and Learning Act 2009, Schedule 8, paragraph 13(1) to (3).

(**34**) 1992 c.13; section 65(2)(c)(i) was amended by the Local Education Authorities and Children's Service Authorities (Integration of Functions) Order S.I. 2010/1158, Schedule 2, Part 1, paragraph 5(1) and (2); subsections (3A) and (3B) were inserted by the Teaching and Higher Education Act 1998 (c.30), section 27.

(**35**) 1980 c.44.

(**36**) 2005 asp 6. Section 7B (regional strategic bodies) was inserted by the Post-16 Education (Scotland) Act 2013 (asp 12), section 8.