Changes to legislation: *The Industrial Relations (Northern Ireland) Order 1992 is up to date with all changes known to be in force on or before 06 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1992 No. 807 (N.I. 5)

The Industrial Relations (Northern Ireland) Order 1992 [F1]

- - - - - - *16th March 1992*

F1 functions transf. SR 1999/481

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Industrial Relations (Northern Ireland) Order 1992.

(2) This Order shall come into operation on such day or days as the Head of the Department of Economic Development may by order appoint[F2].

(3) Without prejudice to Article 107(3), an order under paragraph (2) may contain such transitional and supplementary provisions as appear to the Head of the Department of Economic Development to be necessary or expedient.

F2 fully exercised by SR 1992/212

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F3] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

[[F4](1A) Articles 2(2), 144 and 145 (interpretation) of the Trade Union and Labour Relations (Northern Ireland) Order 1995 shall apply in relation to this Order as they apply in relation to that Order.**]**

(2) In this Order—

Definitions rep. by 1995 NI 12

[[F5]"agency worker" has the meaning given in regulation 3 of the Agency Workers Regulations (Northern Ireland) 2011;**]**

[[F4]"agent", in relation to a trade union or employers' association, means a banker or solicitor of, or any person employed as an auditor by, the union or association or any branch or section of the union or association;**]**

"the appointed day", in any provision, means the day appointed under Article 1(2) for the coming into operation of that provision;

Definition rep. by 1995 NI 12

"collective agreement" means any agreement or arrangement made by or on behalf of one or more trade unions and one or more employers or employers' associations and relating to one or more of the matters mentioned in**[**F4 Article 96(1)**]**;

"collective bargaining" means negotiations relating to or connected with one or more of the matters mentioned in**[**F4 Article 96(1)**]**;

Definition rep. by 1995 NI 12

F6 . . . . . .

Definitions rep. by 1995 NI 12

[F4"financial affairs", in relation to a trade union or employers' association, means affairs of the union or association relating to any fund which is applicable for the purposes of the union or association (including any fund of a branch or section of the union or association which is so applicable);**]**

"independent trade union" means a trade union which—

(a) is not under the domination or control of an employer or a group of employers or of one or more employers' associations; and

(b) is not liable to interference by an employer or any such group or association (arising out of the provision of financial or material support or by any other means whatsoever) tending towards such control;

and, in relation to a trade union, "independence" and "independent" shall be construed accordingly;

Definition rep. by 1995 NI 12

"the Industrial Court" means the Industrial Court constituted underArticle 91;

Definitions rep. by 1995 NI 12

"strike" means any concerted stoppage of work;

Definitions rep. by 1995 NI 12

Paras.(3)#(9) rep. by 1995 NI 12

(10) For the purposes of this Order any two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control; and in this Order "associated employer" shall be construed accordingly.

(11) For the purposes of this Order it is immaterial whether the law which (apart from this Order) governs any person's employment is the law of the United Kingdom, or of a part of the United Kingdom, or not.

F3 1954 c.33 (NI)
F4 1995 NI 12
F5 Art. 2(2): definition of "agency worker" inserted (5.12.2011) by Agency Workers Regulations (Northern Ireland) 2011 (S.R. 2011/350), reg. 23(2), **Sch. 2 para. 2**
F6 Art. 2(2): definition of "the Companies Order" omitted (1.10.2009) by virtue of Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 136(2)** (with art. 10)

PART II

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

Definition and status

Definition and status of trade union

3.—(1) In this Order "trade union" means an organisation (whether permanent or temporary) which either—

(a) consists wholly or mainly of workers of one or more descriptions and is an organisation whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers' associations; or

(b) consists wholly or mainly of—

(i) constituent or affiliated organisations which fulfil the conditions specified in sub-paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions); or

(ii) representatives of such constituent or affiliated organisations;

and in either case is an organisation whose principal purposes include the regulation of relations between workers and employers or between workers and employers' associations, or include the regulation of relations between its constituent or affiliated organisations.

(2) A trade union shall not be, or be treated as if it were, a body corporate, but—

(a) it shall be capable of making contracts;

(b) all property belonging to the trade union shall be vested in trustees in trust for the union;

(c) it shall be 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 whatsoever;

(d) proceedings for any offence alleged to have been committed by it or on its behalf may be brought against it in its own name; and

(e) any judgment, order or award made in proceedings of any description brought against the trade union shall be enforceable by way of enforcement order under the Judgments Enforcement (Northern Ireland) Order 1981[F7], punishment for contempt or otherwise, against any property held in trust for the trade union to the like extent and in the like manner as if the union were a body corporate.

(3) A trade union shall not be registered as a company under **[**[F8]the Companies Act 2006**]** and accordingly any registration of a trade union under **[**[F9]that Act**]** (whenever effected) shall be void.

(4) A trade union shall not be registered under **[**[F10]the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969**]**[F11] or the Friendly Societies Act (Northern Ireland) 1970[F12] and accordingly any registration of a trade union under either of those Acts (whenever effected) shall be void.

(5) The purposes of any trade union shall not, by reason only that they are in restraint of trade, be 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;

nor shall any rule of a trade union be unlawful or unenforceable by reason only that it is in restraint of trade.

(6) Article 113 of the Judgments Enforcement (Northern Ireland) Order 1981[F13] (sequestration order against company in contempt) shall apply to a trade union as it applies to a company.

F7 1981 NI 6
F8 Words in art. 3(3) 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(3)(a)** (with art. 10)
F9 Words in art. 3(3) 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(3)(b)** (with art. 10)
F10 Words in art. 3(4) substituted (6.4.2018) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17(2), **Sch. 1 para. 25**; S.R. 2017/217, art. 2(d)
F11 1969 c.24 (NI)
F12 1970 c.31 (NI)
F13 1981 NI 6

Definition and status of employers' association

4.—(1) Subject to paragraph (2), in this Order "employers' association" means an organisation (whether permanent or temporary) which either—

(a) consists wholly or mainly of employers or individual proprietors of one or more descriptions and is an organisation whose principal purposes include the regulation of relations between employers of that description or those descriptions and workers or trade unions; or

(b) consists wholly or mainly of—

(i) constituent or affiliated organisations which fulfil the conditions specified in sub-paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions); or

(ii) representatives of such constituent or affiliated organisations;

and in either case is an organisation whose principal purposes include the regulation of relations between employers and workers or between employers and trade unions, or include the regulation of relations between its constituent or affiliated organisations.

(2) References in this Order to an employers' association include references to a combination of employers and employers' associations.

(3) An employers' association may be either a body corporate or an unincorporated association.

(4) Where an employers' association is unincorporated—

(a) it shall be capable of making contracts;

(b) all property belonging to the employers' association shall be vested in trustees in trust for the association;

(c) it shall be 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 whatsoever;

(d) proceedings for any offence alleged to have been committed by it or on its behalf may be brought against it in its own name; and

(e) any judgment, order or award made in proceedings of any description brought against the employers' association shall be enforceable by way of enforcement order under the

Judgments Enforcement (Northern Ireland) Order 1981[F14], punishment for contempt or otherwise, against any property held in trust for the employers' association to the like extent and in the like manner as if the association were a body corporate.

Para.(5) rep. by 2003 NI 17

(6) The purposes of an unincorporated employers' association and, in so far as they relate to the regulation of relations between employers and workers or trade unions, the purposes of an employers' association which is a body corporate, shall not, by reason only that they are in restraint of trade, be unlawful so as—

(a) to make any member of the association liable to criminal proceedings for conspiracy or otherwise; or

(b) to make any agreement or trust void or voidable;

nor shall any rule of an unincorporated employers' association or, in so far as it so relates, any rule of an employers' association which is a body corporate be unlawful or unenforceable by reason only that it is in restraint of trade.

(7) Article 113 of the Judgments Enforcement (Northern Ireland) Order 1981 (sequestration order against company in contempt) shall apply to an unincorporated employers' association as it applies to a company.

F14 1981 NI 6

Listing and certification

Lists of trade unions and employers' associations

5.—(1) The Certification Officer shall maintain a list of trade unions and a list of employers' associations containing the names of those organisations which are entitled to have their names entered therein under the following provisions of this Article.

(2) The Certification Officer shall enter in the list of trade unions or employers' associations, as the case may be, the name of every organisation of workers or of employers which immediately before the appointed day was registered (whether by that or any other name) in Northern Ireland as a trade union under the Trade Union Acts (Northern Ireland) 1871 to 1965, except an organisation which appears to him not to be a trade union or, as the case may be, employers' association within the meaning of this Order.

(3) Any organisation of workers or of employers, whenever formed, whose name is not entered in the relevant list may apply to the Certification Officer to have its name so entered and, subject to paragraph (5), the Certification Officer shall, if satisfied that the organisation is a trade union or employers' association and that paragraph (4) has been complied with, enter the name of that organisation in the relevant list.

(4) An application under paragraph (3) shall be made in such form and manner as the Certification Officer may require and be accompanied by a fee of £45 or such other fee as may be prescribed by regulations and also by—

(a) a copy of the rules of the organisation;

(b) a list of its officers;

(c) the address of its head or main office; and

(d) the name under which it is or is to be known.

(5) The Certification Officer shall not under paragraph (3) enter the name of an organisation in the relevant list if that name is—