



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART I

TRADE UNIONS

CHAPTER I

INTRODUCTORY

Certification as independent trade union

5 Meaning of “independent trade union”

In this Act an “independent trade union” means a trade union which—

- (a) is not under the domination or control of an employer or 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 references to “independence”, in relation to a trade union, shall be construed accordingly.

6 Application for certificate of independence

- (1) A trade union whose name is entered on the list of trade unions may apply to the Certification Officer for a certificate that it is independent.

The application shall be made in such form and manner as the Certification Officer may require and shall be accompanied by the prescribed fee.

Status: This is the original version (as it was originally enacted).

- (2) The Certification Officer shall maintain a record showing details of all applications made to him under this section and shall keep it available for public inspection (free of charge) at all reasonable hours.
- (3) If an application is made by a trade union whose name is not entered on the list of trade unions, the Certification Officer shall refuse a certificate of independence and shall enter that refusal on the record.
- (4) In any other case, he shall not come to a decision on the application before the end of the period of one month after it has been entered on the record; and before coming to his decision he shall make such enquiries as he thinks fit and shall take into account any relevant information submitted to him by any person.
- (5) He shall then decide whether the applicant trade union is independent and shall enter his decision and the date of his decision on the record.
- (6) If he decides that the trade union is independent he shall issue a certificate accordingly; and if he decides that it is not, he shall give reasons for his decision.

7 Withdrawal or cancellation of certificate

- (1) The Certification Officer may withdraw a trade union's certificate of independence if he is of the opinion that the union is no longer independent.
- (2) Where he proposes to do so he shall notify the trade union and enter notice of the proposal in the record.
- (3) He shall not come to a decision on the proposal before the end of the period of one month after notice of it was entered on the record; and before coming to his decision he shall make such enquiries as he thinks fit and shall take into account any relevant information submitted to him by any person.
- (4) He shall then decide whether the trade union is independent and shall enter his decision and the date of his decision on the record.
- (5) He shall confirm or withdraw the certificate accordingly; and if he decides to withdraw it, he shall give reasons for his decision.
- (6) Where the name of an organisation is removed from the list of trade unions, the Certification Officer shall cancel any certificate of independence in force in respect of that organisation by entering on the record the fact that the organisation's name has been removed from that list and that the certificate is accordingly cancelled.

8 Conclusive effect of Certification Officer's decision

- (1) A certificate of independence which is in force is conclusive evidence for all purposes that a trade union is independent; and a refusal, withdrawal or cancellation of a certificate of independence, entered on the record, is conclusive evidence for all purposes that a trade union is not independent.
- (2) A document purporting to be a certificate of independence and to be signed by the Certification Officer, or by a person authorised to act on his behalf, shall be taken to be such a certificate unless the contrary is proved.

- (3) A document purporting to be a certified copy of an entry on the record and to be signed by the Certification Officer, or by a person authorised to act on his behalf, shall be taken to be a true copy of such an entry unless the contrary is proved.
- (4) If in any proceedings before a court, the Employment Appeal Tribunal, the Central Arbitration Committee, ACAS or an industrial tribunal a question arises whether a trade union is independent and there is no certificate of independence in force and no refusal, withdrawal or cancellation of a certificate recorded in relation to that trade union—
 - (a) that question shall not be decided in those proceedings, and
 - (b) the proceedings shall instead be stayed or sisted until a certificate of independence has been issued or refused by the Certification Officer.
- (5) The body before whom the proceedings are stayed or sisted may refer the question of the independence of the trade union to the Certification Officer who shall proceed in accordance with section 6 as on an application by that trade union.