

EMPLOYMENT RELATIONS ACT 2004

EXPLANATORY NOTES

COMMENTARY

Part 6: Miscellaneous

New section 116A

376. Subsection (1) of new section 116A defines the five purposes for which the Secretary of State may give money to a trade union.
377. Subsection (2) has the effect that, subject to the exception provided by *subsection (2)* of section 55, a trade union must be independent to receive money from the Secretary of State. Section 5 of the 1992 Act provides the definition of an independent trade union and section 6 of that Act provides for unions to apply to the Certification Officer for a certificate of independence.
378. Subsection (3) gives the power to the Secretary of State to determine the way the assistance is to be provided and terms attached to the disbursement of the support.
379. Subsection (4) prohibits any money provided to a trade union under section 116A from being added to that union's political fund. (Provisions relating to trade union political funds can be found at Part I, Chapter VI of the 1992 Act).
380. Subsection (5) provides that the Secretary of State is entitled to recover any amount added to a trade union's political fund in contravention of the prohibition at subsection (4), and must take such steps as are reasonably practicable in order to do so.
381. Subsection (6) provides that any amount recovered under subsection (5) must be recovered from the political fund.
382. Subsection (7) makes clear that the provision at subsection (5) does not prevent the terms on which money is provided to trade unions under that section from also including other sanctions to be applied against any union which contravenes the prohibition on adding monies to its political fund.
383. *Subsection (2)* of section 55 amends section 118 of the 1992 Act to provide that federations of trade unions do not need to have a certificate of independence to qualify for support under new section 116A.