



Employment Relations Act 2004

2004 CHAPTER 24

PART 5

THE CERTIFICATION OFFICER

50 Amalgamations: approval, listing and certification

(1) In section 98 of the 1992 Act (approval of instrument of amalgamation or transfer) for subsection (2) substitute—

“(2) If the Certification Officer is satisfied—

- (a) that an instrument of amalgamation complies with the requirements of any regulations in force under this Chapter, and
- (b) that he is not prevented from approving the instrument of amalgamation by subsection (3),

he shall approve the instrument.

(3) The Certification Officer shall not approve an instrument of amalgamation if it appears to him that the proposed name of the amalgamated union is the same as the name under which another organisation—

- (a) was on 30th September 1971 registered as a trade union under the Trade Union Acts 1871 to 1964,
- (b) was at any time registered as a trade union or employers' association under the Industrial Relations Act 1971, or
- (c) is for the time being entered in the list of trade unions or in the list of employers' associations,

or if the proposed name is one so nearly resembling any such name as to be likely to deceive the public.

(4) Subsection (3) does not apply if the proposed name is the name of one of the amalgamating unions.

Status: This is the original version (as it was originally enacted).

- (5) If the Certification Officer is satisfied that an instrument of transfer complies with the requirements of any regulations in force under this Chapter, he shall approve the instrument.”

- (2) After section 101 of that Act insert—

“101A Listing and certification after amalgamation

- (1) Subsection (2) applies if when an instrument of amalgamation is registered by the Certification Officer under this Chapter each of the amalgamating unions is entered in the list of trade unions.
- (2) The Certification Officer shall—
- (a) enter, with effect from the amalgamation date, the name of the amalgamated union in the list of trade unions, and
 - (b) remove, with effect from that date, the names of the amalgamating unions from that list.
- (3) Subsection (4) applies if when an instrument of amalgamation is registered by the Certification Officer under this Chapter each of the amalgamating unions has a certificate of independence which is in force.
- (4) The Certification Officer shall issue to the amalgamated trade union, with effect from the amalgamation date, a certificate that the union is independent.
- (5) In this section “the amalgamation date” means the date on which the instrument of amalgamation takes effect.

101B Supply of information by amalgamated union

- (1) If an instrument of amalgamation is registered under this Chapter by the Certification Officer and the amalgamated union is entered in the list of trade unions in accordance with section 101A, that union shall send to him, in such manner and form as he may require—
- (a) a copy of the rules of the union,
 - (b) a list of its officers, and
 - (c) the address of its head or main office.
- (2) The information required to be sent under subsection (1) must be accompanied by any fee prescribed for the purpose under section 108.
- (3) The information must be sent—
- (a) before the end of the period of six weeks beginning with the date on which the instrument of amalgamation takes effect, or
 - (b) if the Certification Officer considers that it is not reasonably practicable for the amalgamated union to send it in that period, before the end of such longer period, beginning with that date, as he may specify to the amalgamated union.
- (4) If any of subsections (1) to (3) are not complied with by the amalgamated union, the Certification Officer shall remove its name from the list of trade unions.”

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

- (3) In section 133(2) of the 1992 Act (modifications of Chapter 7 of Part 1 in its application to amalgamations of unincorporated employers' associations)—
 - (a) omit “and” at the end of paragraph (b) and after that paragraph insert—
 - “(ba) as if the references in sections 101A and 101B to the list of trade unions were to the list of employers' associations, and”;
 - and
 - (b) in paragraph (c), after “101(3)” insert “, 101A(3) and (4)”.
- (4) In section 298 of that Act (definitions for the purposes of the Act) at the appropriate place insert—
 - ““certificate of independence” means a certificate issued under—
 - (a) section 6(6), or
 - (b) section 101A(4);”
- (5) In section 299 of that Act (index of defined terms), at the appropriate place insert—

“certificate of independence section 298.”

- (6) In each of paragraphs 6, 35(4)(a), 44(4)(a), 60(4), 134(1)(b) and 138 of Schedule A1 to that Act (requirements for union to be independent) for the words “under section 6 that it is independent” substitute “of independence”.