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STATUTORY INSTRUMENTS

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**1987 No. 936**

**The Industrial Relations (Northern Ireland) Order 1987**

*Proceedings involving trade unions and employers' associations*

**Capacity of trade unions and unincorporated employers' associations to sue and be sued**

16.—(1) A trade union and an unincorporated employers' association 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.

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

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

**Actions in tort against trade unions**

17.—(1) Section 4 of the Trade Disputes Act 1906 (immunity for trade unions within the meaning of that Act from certain actions in tort) shall cease to have effect.

(2) Where proceedings in tort are brought against a trade union—

- (a) on a ground specified in paragraph (1)(a) or (b) of Article 64 of the No. 1 Order; or
- (b) in respect of an agreement or combination by two or more persons to do or to procure the doing of an act which, if it were done without any such agreement or combination, would be actionable in tort on such a ground; then, for the purpose of determining in those proceedings whether the union is liable in respect of the act in question, that act shall be taken to have been done by the union if, but only if, it was authorised or endorsed by a responsible person.

(3) For the purposes of this Article but subject to paragraph (4), an act shall not be taken to have been authorised or endorsed by a responsible person unless it was authorised or, as the case may be, endorsed—

- (a) by the principal executive committee;
- (b) by any other person who is empowered by the rules to authorise or, as the case may be, endorse acts of the kind in question;
- (c) by the president or general secretary;
- (d) by any other official who is an employed official; or
- (e) by any committee of the union to whom an employed official regularly reports.

(4) An act shall not be taken, by virtue of paragraph (3)(d) or (e) to have been authorised or endorsed by a responsible person if—

- (a) that person was, at the time in question, prevented by the rules from authorising or endorsing acts of the kind in question; or
  - (b) the act has been repudiated by the principal executive committee or by the president or general secretary.
- (5) For the purposes of paragraph (4)(b), an act shall not be treated as repudiated unless—
- (a) it is repudiated as soon as is reasonably practicable after the purported authorisation or endorsement of the act has come to the knowledge of the principal executive committee or, as the case may be, of the president or general secretary; and
  - (b) the person who purported to authorise or endorse the act has been notified in writing and without delay that it has been repudiated.
- (6) An act shall not be treated as repudiated, notwithstanding paragraph (5), if at any time after the union concerned purported to repudiate it the principal executive committee or president or general secretary has behaved in a manner which is inconsistent with the purported repudiation.
- (7) In this Article—
- “general secretary” means the official of the union concerned who holds the office of general secretary or, where there is no such office, who holds the office which is equivalent, or the nearest equivalent, to that of general secretary;
- “official” means an official of the union concerned; and “employed official” means, in relation to that union, an official who is employed by it;
- “president” means the official of the union concerned who holds the office of president or, where there is no such office, who holds the office which is equivalent, or the nearest equivalent, to that of president;
- “principal executive committee” means the principal committee of the union concerned exercising executive functions, by whatever name it is known;
- “rules” means the written rules of the union and any other written provisions forming part of the contract between a member and the other members.
- (8) Where, for the purpose of any proceedings, an act is by virtue of this Article taken to have been done by a trade union nothing in this Article shall affect the liability of any other person in those or any other proceedings in respect of that act.

### **Limit on damages awarded against trade unions in actions in tort**

**18.**—(1) Subject to paragraph (2), in any proceedings in tort brought against a trade union the amount which may be awarded against the union by way of damages in those proceedings shall not exceed the appropriate limit.

- (2) Paragraph (1) does not apply to any proceedings—
- (a) for any of the following resulting in personal injury to any person, that is to say negligence, nuisance or breach of duty; or
  - (b) without prejudice to sub-paragraph (a), for breach of duty in connection with the ownership, occupation, possession, control or use of property (whether real or personal).
- (3) The appropriate limit is—
- (a) £10,000, if the union has less than 5,000 members;
  - (b) £50,000, if it has 5,000 or more members but less than 25,000 members;
  - (c) £125,000, if it has 25,000 or more members but less than 100,000 members; and
  - (d) £250,000, if it has 100,000 or more members.

(4) The Department may by order vary any of the sums for the time being specified in paragraph (3).

(5) An order under paragraph (4)—

(a) shall come into operation on such date as is specified in the order and shall be laid before the Assembly as soon as may be after it is made but shall cease to have effect upon the expiration of a period of six months from the date on which it comes into operation unless, before the expiration of that period, it is approved by a resolution of the Assembly;

(b) may make such transitional provision as the Department considers appropriate.

(6) In this Article—

“duty” means a duty imposed by any rule of law or by or under any statutory provision; and

“personal injury” includes any disease and any impairment of a person’s physical or mental condition.

(7) In calculating for the purposes of this Article the number of members which a trade union has—

(a) there shall be included members outside Northern Ireland; and

(b) in any case where a trade union consists wholly or mainly of organisations or representatives of organisations, the members of those organisations shall be treated as members of the union.

### **Recovery of sums awarded in proceedings involving trade unions and employers' associations**

19.—(1) Where in any proceedings an amount is awarded by way of damages, costs or expenses

(a) against a trade union or employers' association;

(b) against trustees in whom property is vested in trust for a trade union or employers' association, in their capacity as such and otherwise than in respect of a breach of trust on their part; or

(c) against members or officials of a trade union or employers' association on behalf of themselves and all of the members of the union or association; no part of that amount shall be recoverable by enforcement against any protected property.

(2) In this Article “protected property” means any property—

(a) belonging to the trustees concerned otherwise than in their capacity as such;

(b) belonging to any member of the union or association concerned otherwise than jointly or in common with the other members;

(c) belonging to any official of the union or association concerned who is neither a member nor such a trustee;

(d) comprised in a political fund of the union concerned; or

(e) comprised in a provident benefits fund of the union concerned.

(3) In paragraph (2)—

“political fund” means a fund which is a political fund for the purposes of section 3 of the Trade Union Act 1913 and which is (and was at the time when the act in respect of which the proceedings are brought was done) subject to rules of the union which prevent property which is or has been comprised in the fund from being used for financing strikes or other industrial action;

“provident benefits” includes any payment, expressly authorised by the rules of the union, which is made to a member during sickness or incapacity from personal injury or while out

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of work, or to an aged member by way of superannuation, or to a member who has met with an accident or has lost his tools by fire or theft, and includes a payment in discharge or aid of funeral expenses on the death of a member or the wife of a member, or as provision for the children of a deceased member; and

“provident benefits fund” means a separate fund which is maintained in accordance with the rules of the union for the purpose only of providing provident benefits.