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STATUTORY INSTRUMENTS

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**1992 No. 807**

**The Industrial Relations (Northern Ireland) Order 1992**

**PART III**

**RESTRICTIONS ON LEGAL LIABILITY AND LEGAL PROCEEDINGS**

*Restrictions on legal liability*

**Acts in contemplation or furtherance of trade disputes**

**15.**—(1) An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable in tort on the ground only—

- (a) that it induces another person to break a contract or interferes or induces any other person to interfere with its performance; or
- (b) that it consists in his threatening that a contract (whether one to which he is a party or not) will be broken or its performance interfered with, or that he will induce another person to break a contract or to interfere with its performance.

(2) An agreement or combination by two or more persons to do or procure the doing of any act in contemplation or furtherance of a trade dispute shall not be actionable in tort if the act is one which, if done without any such agreement or combination, would not be actionable in tort.

(3) This Article is subject to Articles 16 to 20.

**Peaceful picketing**

**16.**—(1) Nothing in Article 15 shall prevent an act done in the course of picketing from being actionable in tort unless it is done in the course of attendance declared lawful by this Article.

(2) It shall be lawful for a person in contemplation or furtherance of a trade dispute to attend—

- (a) at or near his own place of work; or
- (b) if he is an official of a trade union, at or near the place of work of a member of that union whom he is accompanying and whom he represents,

for the purpose only of peacefully obtaining or communicating information, or peacefully persuading any person to work or abstain from working.

(3) If a person works or normally works—

- (a) otherwise than at any one place; or
- (b) at a place the location of which is such that attendance there for a purpose mentioned in paragraph (2) is impracticable,

his place of work for the purposes of that paragraph shall be any premises of his employer from which he works or from which his work is administered.

(4) In the case of a worker who is not in employment where—

- (a) his last employment was terminated in connection with a trade dispute; or

- (b) the termination of his employment was one of the circumstances giving rise to a trade dispute,

paragraph (2) shall in relation to that dispute have effect as if any reference to his place of work were a reference to his former place of work.

(5) A person who is an official of a trade union by virtue only of having been elected or appointed to be a representative of some of the members of the union shall be regarded for the purposes of paragraph (2) as representing only those members; but otherwise an official of a trade union shall be regarded for those purposes as representing all its members.

### **Secondary action**

17.—(1) Nothing in Article 15 shall prevent an act from being actionable in tort on a ground specified in paragraph (1)(a) or (b) of that Article in any case where—

- (a) the contract concerned is not a contract of employment; and
- (b) one of the facts relied upon for the purpose of establishing liability is that there has been secondary action which is not action satisfying the requirements of paragraph (3), (4) or (5) of this Article.

(2) For the purposes of this Article there is secondary action in relation to a trade dispute when, and only when, a person—

- (a) induces another to break a contract of employment or interferes or induces another to interfere with its performance; or
- (b) threatens that a contract of employment under which he or another is employed will be broken or its performance interfered with, or that he will induce another to break a contract of employment or to interfere with its performance,

if the employer under the contract of employment is not a party to the trade dispute.

(3) Secondary action satisfies the requirements of this paragraph if—

- (a) the purpose or principal purpose of the secondary action was directly to prevent or disrupt the supply during the dispute of goods or services between an employer who is a party to the dispute and the employer under the contract of employment to which the secondary action relates; and
- (b) the secondary action (together with any corresponding action relating to other contracts of employment with the same employer) was likely to achieve that purpose.

(4) Secondary action satisfies the requirements of this paragraph if—

- (a) the purpose or principal purpose of the secondary action was directly to prevent or disrupt the supply during the dispute of goods or services between any person and an associated employer of an employer who is a party to the dispute; and
- (b) the goods or services are in substitution for goods or services which but for the dispute would have fallen to be supplied to or by the employer who is a party to the dispute; and
- (c) the employer under the contract of employment to which the secondary action relates is either the said associated employer or the other party to the supply referred to in sub-paragraph (a); and
- (d) the secondary action (together with any corresponding action relating to other contracts of employment with the same employer) was likely to achieve the purpose referred to in sub-paragraph (a).

(5) Secondary action satisfies the requirements of this paragraph if it is done in the course of attendance declared lawful by Article 16—

- (a) by a worker employed (or, in the case of a worker not in employment, last employed) by a party to the dispute; or
  - (b) by a trade union official whose attendance is lawful by virtue of paragraph (2)(b) of that Article.
- (6) In paragraphs (3)(a) and (4)(a)—
- (a) references to the supply of goods or services between two persons are references to the supply of goods or services by one to the other in pursuance of a contract between them subsisting at the time of the secondary action; and
  - (b) references to directly preventing or disrupting the supply are references to preventing or disrupting it otherwise than by means of preventing or disrupting the supply of goods or services by or to any other person.
- (7) For the purposes of this Article an employer who is a member of an employers' association which is a party to a trade dispute shall by virtue of his membership be regarded as a party to the dispute if he is represented in the dispute by the association, but not otherwise.

### **Industrial action to enforce trade union membership**

**18.**—(1) Nothing in Article 15 shall prevent an act being actionable in tort in any case where the reason, or one of the reasons, for which the act is done is the fact or belief that a particular employer—

- (a) is employing, has employed or might employ a person who is not a member of any trade union, a person who is not a member of a particular trade union or a person who is not a member of one of a number of particular trade unions; or
- (b) is failing, has failed or might fail to discriminate against any such person.

(2) For the purposes of paragraph (1)(b) an employer discriminates against a person who is not a member of any trade union, of a particular trade union or, as the case may be, of one of a number of particular trade unions, if, but only if, he ensures that his conduct in relation to persons, or persons of any description, who are employed by him or who apply to be, or are, considered by him for employment or in relation to the provision of employment for such persons—

- (a) is different, in some or all cases, according to whether or not those persons are such members; and
- (b) is more favourable to those who are.

(3) In this Article—

- (a) references to an employer employing a person are references to a person acting in the capacity of the person for whom a worker works or normally works; and
- (b) references to not being a member of a trade union include references to not being a member of a particular branch or section of that union and to not being a member of one of a number of particular branches or sections of that union.

### **Pressure to impose union membership or recognition requirements**

**19.**—(1) Nothing in Article 15 shall prevent an act being actionable in tort in any case where a person induces, or attempts to induce, another—

- (a) to incorporate in a contract to which that other person is a party, or proposed contract to which that other person intends to be a party, any term or condition which is, or would be, void by virtue of Article 27(1) or 28(1); or
- (b) to contravene Article 27(2) or 28(2);

and the act constitutes, or is one of a number of acts which together constitute, the inducement or attempted inducement.

(2) Nothing in Article 15 shall prevent an act which interferes with the supply (whether or not under a contract) of goods or services, or can reasonably be expected to have such an effect, being actionable in tort in any case where paragraph (3) is satisfied and one of the facts relied upon for the purpose of establishing liability is that any person has—

- (a) induced another to break a contract of employment or interfered or induced another to interfere with its performance; or
- (b) threatened that a contract of employment under which he or another is employed will be broken or its performance interfered with, or that he will induce another to break a contract of employment or to interfere with its performance.

(3) This paragraph is satisfied if—

- (a) the supplier of the goods or services is not the employer under the contract of employment mentioned in paragraph (2); and
- (b) the reason, or one of the reasons, for which the act is done is the fact or belief that the supplier does not, or that the supplier might not, recognise, negotiate or consult as mentioned in Article 28.

#### **Industrial action authorised or endorsed by trade union without support of a ballot**

**20.**—(1) Nothing in Article 15 shall prevent an act done by a trade union without the support of a ballot from being actionable in tort (whether or not against the trade union) on the ground that it induced a person to break his contract of employment or to interfere with its performance.

(2) Nothing in Article 15 shall prevent an act done by a trade union from being actionable in tort (whether or not against the trade union) on the ground that it induced a person to break a commercial contract or to interfere with its performance where—

- (a) one of the facts relied upon for the purpose of establishing liability is that the union induced another person to break his contract of employment or to interfere with its performance; and
- (b) by virtue of paragraph (1), nothing in Article 15 would prevent the act of inducement referred to in sub-paragraph (a) from being actionable in tort.

(3) Part VI has effect for determining whether an act shall be taken for the purposes of paragraph (1) as having been done with the support of a ballot.

(4) In this Article “commercial contract” means any contract which is not a contract of employment.