

SCHEDULES

SCHEDULE 1

Article 11.

ADMINISTRATIVE PROVISIONS RELATING TO TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

PART I

ANNUAL RETURNS, AND QUALIFICATIONS, APPOINTMENT AND REMOVAL, AND FUNCTIONS, OF AUDITORS

Annual returns

1.—(1) Subject to paragraph 5, the annual return of a trade union or an employers' association required by Article 11(2) shall be sent to the Certification Officer before 1st June and shall relate to the last preceding calendar year.

(2) The annual return shall be in such form and be signed by such persons as the Certification Officer may require.

2. Every annual return shall contain—

- (a) revenue accounts indicating the income and expenditure of the trade union or employers' association for the period to which the return relates;
- (b) a balance sheet as at the end of that period;
- (c) such other accounts (if any) as the Certification Officer may require; and
- (d) a copy of the rules of the trade union or employers' association as in force at the end of that period;

and shall have attached to it a note of all changes in the officers of the union or association and of any change in the address of the head or main office of the union or association during the period to which the return relates.

3. Every revenue account, every balance sheet and every other account contained in a return in accordance with paragraph 2 shall give a true and fair view of the matters to which it relates.

4. Every return, in addition to containing the accounts mentioned in paragraph 2 shall contain a copy of the report made by the auditor or auditors of the trade union or employers' association on those accounts under paragraph 18 and such other documents relating to those accounts and such further particulars as the Certification Officer may require, subject in the case of the accounts contained in the return to such modifications (if any) as may be necessary to secure compliance with paragraph 3.

5. The Certification Officer, if in any particular case he considers it appropriate to do so,—

- (a) may direct that the period for which a return is to be sent to him under Article 11(2) shall be a period other than the calendar year last preceding the date on which the return is sent;

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- (b) whether a direction under sub-paragraph (a) is given or not, may direct that the date before which any such return is to be sent to him shall be such date (whether before or after 1st June) as may be specified in the direction.

Qualifications of auditors

6. Subject to paragraphs 7 to 9, a person shall not be qualified to be the auditor or one of the auditors of a trade union or employers' association unless he is either a member of one or more of the following bodies—

- (a) the Institute of Chartered Accountants in Ireland;
- (b) the Institute of Chartered Accountants in England and Wales;
- (c) the Institute of Chartered Accountants of Scotland;
- (d) the Chartered Association of Certified Accountants;
- (e) any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of Article 397(1)(a) of the Companies Order;

or a person who is for the time being authorised by the Department under Article 397(1)(b) of that Order as being a person with similar qualifications obtained outside the United Kingdom.

7. Notwithstanding anything in paragraph 6, a Scottish firm may act as auditor of a trade union or employers' association if, but only if, every partner of the firm is qualified so to act.

8. A person who is not qualified under paragraph 6 may act in respect of any accounting period as auditor of a trade union or employers' association if—

- (a) it was registered under the Trade Union Acts (Northern Ireland) 1871 to 1965 immediately before the appointed day;
- (b) he acted as its auditor in respect of the last period in relation to which it was required to make an annual return under section 16 of the Trade Union Act 1871⁽¹⁾;
- (c) he has acted as its auditor in respect of every accounting period since that period; and
- (d) he is for the time being authorised by the Department under Article 397(1)(b) of the Companies Order otherwise than as mentioned in paragraph 6.

9.—(1) Two or more persons who are not qualified under paragraph 6 may act as auditors of a trade union or employers' association in respect of any accounting period of that union or association if—

- (a) its receipts and payments in respect of its last preceding accounting period did not in the aggregate exceed £5,000;
- (b) the number of its members at the end of its last preceding accounting period did not exceed 500; and
- (c) the value of its assets at the end of its last preceding accounting period did not in the aggregate exceed £5,000.

(2) Where by virtue of sub-paragraph (1) persons who are not qualified under paragraph 6 act as auditors in respect of any accounting period of a trade union or employers' association, the Certification Officer may at any time (whether during that period or after it comes to an end) direct the trade union or employers' association to appoint a person who is so qualified to audit its accounts for that period.

(3) Regulations may—

(1) 1871 c. 31

- (a) substitute for any sum or number for the time being specified in sub-paragraph (1) such sum or number as may be specified in the regulations; and
- (b) prescribe what receipts and payments shall be taken into account for the purposes of that sub-paragraph.

10.—(1) None of the following persons shall act as auditor of a trade union or employers' association, that is to say—

- (a) an officer or employee of the trade union or employers' association or of any of its branches or sections;
 - (b) a person who is a partner of, or in the employment of, or who employs, such an officer or employee;
 - (c) a body corporate.
- (2) References in this paragraph to an officer shall be construed as not including an auditor.

Appointment and removal of auditors

11. The rules of every trade union and every employers' association shall contain provision for the appointment and removal of auditors.

12. Notwithstanding anything in the rules of a trade union or employers' association, its auditor or auditors shall not be removed from office except by resolution passed at a general meeting of its members, or of delegates of its members.

13.—(1) Notwithstanding anything in the rules of a trade union or employers' association, a qualified auditor appointed to audit its accounts for the preceding year of account shall (subject to sub-paragraph (2)) be re-appointed as auditor for the current year of account unless—

- (a) a resolution has been passed at a general meeting of the trade union or employers' association appointing somebody instead of him or providing expressly that he shall not be re-appointed; or
- (b) he has given to the trade union or employers' association notice in writing of his unwillingness to be re-appointed; or
- (c) he is ineligible for appointment as its auditor or one of its auditors for the current year of account; or
- (d) he has ceased to act as its auditor or one of its auditors by reason of incapacity.

(2) Where notice is given of an intended resolution to appoint some person or persons in place of a retiring auditor and the resolution cannot be proceeded with at the meeting because of the death or incapacity of that person or persons, or because he or they are ineligible for appointment as auditor or auditors for the current year of account, the retiring auditor shall not be automatically re-appointed by virtue of this paragraph.

(3) For the purposes of this paragraph a person is ineligible for appointment as auditor of a trade union or employers' association for the current year of account if, but only if,—

- (a) he would be precluded by paragraph 10 from acting as its auditor for that year; or
- (b) he is not a qualified auditor at the time when the question of his appointment falls to be considered.

(4) In this paragraph “qualified auditor”, in relation to a trade union or employers' association, means a person qualified to be its auditor or one of its auditors in accordance with paragraphs 6 to 9, “the current year of account”, in relation to the appointment of a person as auditor, means the year of account in which the question of that appointment arises, and “the preceding year of account” means the year of account immediately preceding the current year of account.

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

14. Regulations may make provision as to the procedure to be followed when it is intended to move a resolution—

- (a) appointing another auditor or other auditors in place of a retiring auditor or retiring auditors of a trade union or an employers' association; or
- (b) providing expressly that a retiring auditor or auditors of a trade union or an employers' association shall not be re-appointed;

and as to the rights of auditors and members of a trade union or an employers' association in relation to such a motion.

15.—(1) Where any regulations made under paragraph 14 require copies of any representations made by a retiring auditor to be sent out, or require any such representations to be read out at a meeting, the High Court, on the application of the trade union or employers' association or of any other person, may dispense with that requirement if satisfied that the rights conferred on the retiring auditor by the regulations are being abused to secure needless publicity for defamatory matter.

(2) On any such application the High Court may order the costs or expenses of the trade union or employers' association to be paid, in whole or in part, by the retiring auditor, whether he is a party to the application or not.

Auditor's right of access to books and information and right to be heard at meetings

16. Every auditor of a trade union or an employers' association—

- (a) shall have a right of access at all times to its accounting records and to all other documents relating to its affairs; and
- (b) shall be entitled to require from its officers, or the officers of any of its branches or sections, such information and explanations as he thinks necessary for the performance of his duties as auditor.

17. Every auditor of a trade union or an employers' association shall be entitled—

- (a) to attend any general meetings of its members, or of delegates of its members, and to receive all notices of and other communications relating to any general meeting which any such member or delegate is entitled to receive; and
- (b) to be heard at any meeting which he attends on any part of the business of the meeting which concerns him as auditor.

Auditor's reports

18. The auditor or auditors of a trade union or an employers' association shall make a report to it on the accounts of the trade union or employers' association audited by him or them and contained in its annual return.

19. The report shall state whether, in the opinion of the auditor or auditors, those accounts give a true and fair view of the matters to which they relate.

20. It shall be the duty of the auditor or auditors, in preparing a report under paragraph 18, to carry out such investigations as will enable him or them to form an opinion as to the following matters, that is to say—

- (a) whether the trade union or employers' association has kept proper accounting records in accordance with the requirements of Article 10;
- (b) whether it has maintained a satisfactory system of control over its transactions in accordance with the requirements of that Article; and

- (c) whether the accounts to which the report refers are in agreement with the accounting records;

and if in the opinion of the auditor or auditors the trade union or employers' association has failed to comply with Article 10(2)(a) or (b) or if the accounts to which the report relates are not in agreement with the accounting records, the auditor or auditors shall state that fact in the report.

21. If an auditor fails to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of an audit, he shall state that fact in his report.

22. In this Part “accounting period”, in relation to a trade union or an employers' association, means any period in relation to which it is required under Article 11(2) to send a return to the Certification Officer.

PART II

MEMBERS' SUPERANNUATION SCHEMES

Examination of superannuation schemes

23. Subject to paragraphs 29 to 31, every trade union and every employers' association which at the appointed day is maintaining a members' superannuation scheme shall arrange for the scheme, as it has effect at a date not later than two years from the appointed day to be examined by an appropriately qualified actuary, and for the actuary to make a report to the trade union or employers' association on the results of his examination of the scheme.

24. Where a members' superannuation scheme to which paragraph 23 applies includes provision for the maintenance of a separate fund for the purpose of the scheme, the examination under that paragraph shall include a valuation (as at the date by reference to which the examination is carried out) of the assets comprised in that fund and of the liabilities falling to be discharged out of it.

25. The report made by the actuary on the results of this examination of any such scheme—

- (a) shall state whether in his opinion the premium or contribution rates are adequate and whether the accounting or funding arrangements are suitable; and
- (b) if the scheme provides for the maintenance of a separate fund for the purposes of the scheme, shall state whether in his opinion the fund is adequate.

26. A copy of any report made by an actuary under paragraph 23 signed by the actuary, shall be sent to the Certification Officer and it shall be the duty of the trade union or employers' association to make such arrangements under that paragraph as will enable the report to be sent to the Certification Officer before the end of the period of one year from the date by reference to which the actuarial examination was carried out.

27. Subject to paragraphs 30 and 31, no trade union or employers' association shall after the appointed day begin to maintain a members' superannuation scheme unless, before the date on which the scheme begins to be maintained,—

- (a) the proposals for the scheme have been examined by an appropriately qualified actuary; and
- (b) a copy of a report made to the trade union or employers' association by the actuary on the results of his examination of the proposals, signed by the actuary, has been sent to the Certification Officer;

and the provisions of paragraph 25 shall have effect in relation to a report under this paragraph on the proposals for a scheme as they have effect in relation to a report on a scheme under paragraph 23.

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

28. A copy of any report made to a trade union or employers' association under paragraph 23 or paragraph 27 shall, on the application of any of its members, be supplied to him free of charge.

29. Where on the application of a trade union or employers' association the Certification Officer is satisfied—

- (a) that a members' superannuation scheme maintained by it, as it had effect at a date not more than two years before the appointed day, has been examined by an actuary;
- (b) that the qualifications of the actuary were adequate for the purpose of carrying out the examination; and
- (c) that the examination, and the report made by the actuary on its results, fulfil the requirements of paragraphs 24 and 25,

the Certification Officer may direct that paragraph 23 shall have effect, in relation to that scheme, as if for the reference to two years from the appointed day there were substituted a reference to five years from the date by reference to which that examination was carried out.

30. The Certification Officer, on the application of a trade union or employers' association, may exempt any members' superannuation scheme which it maintains or proposes to maintain from the requirements of paragraph 23 or (as the case may be) paragraph 27, if he is satisfied that, by reason of the small number of members to which the scheme is or would be applicable or for any other special reasons, it is unnecessary for the scheme to be examined in accordance with those requirements.

31. The Certification Officer may at any time revoke any exemption granted under paragraph 30 if it appears to him that the circumstances by reason of which the exemption was granted have ceased to exist.

Periodical re-examination of schemes

32.—(1) Subject to paragraph 34, where a trade union or employers' association for the time being maintains a members' superannuation scheme, and either—

- (a) the scheme has been examined in pursuance of paragraph 23 or in pursuance of this paragraph; or
- (b) the scheme itself has not been so examined but the proposals for the scheme have been examined in pursuance of paragraph 27,

the trade union or employers' association in question shall arrange for that scheme, as it has effect at each successive relevant date, to be examined by an appropriately qualified actuary, and for a report to be made to it by the actuary on the result of his examination of the scheme.

(2) Subject to the next following sub-paragraph, in this paragraph “relevant date”, in relation to a members' superannuation scheme, means such date as the trade union or employers' association in question may determine, not being later than five years after the date by reference to which the last examination of the scheme, or (as the case may be) the examination of the proposals for the scheme, was carried out in accordance with paragraph 23 or paragraph 27 or in accordance with the preceding sub-paragraph.

(3) In the case of any trade union or employers' association the Certification Officer may direct that, in relation to any time after the making of the direction, sub-paragraph (2) shall have effect as if, for the reference to five years there was substituted a reference to such shorter period as may be specified in the direction.

33. The provisions of paragraphs 24 to 26 and paragraph 28 shall have effect in relation to the examination of a scheme under paragraph 32 as they have effect in relation to the examination of a scheme under paragraph 23.

34. The Certification Officer, on the application of a trade union or employers' association, may exempt any members' superannuation scheme which it maintains from the requirements of paragraph 32 if he is satisfied that, by reason of the small number of members to which the scheme is applicable or for any other special reasons, it is unnecessary for the scheme to be examined in accordance with those requirements.

35. The Certification Officer may at any time revoke any exemption granted under paragraph 34 if it appears to him that the circumstances by reason of which the exemption was granted have ceased to exist; and for the purposes of paragraph 32 the relevant date next following the revocation shall be such date as the Certification Officer may direct.

Separate fund for members' superannuation scheme

36. After the appointed day no trade union or employers' association shall maintain a members' superannuation scheme which was not established before the appointed day unless it maintains a separate fund for the payments of benefits in accordance with the scheme.

37. After the end of the period of five years beginning with the date on which paragraph 36 comes into operation no trade union or employers' association shall maintain a members' superannuation scheme (whenever established) unless it maintains a separate fund for the payment of benefits in accordance with the scheme.

Interpretation of Part II

38. In this Part—

- (a) “members' superannuation scheme” means any scheme or arrangement made by or on behalf of a trade union or employers' association (including any scheme or arrangement shown in the rules of a trade union or employers' association) in so far as it provides for benefits to be paid by way of pension (including any widows' or children's pensions or dependants' pensions) to or in respect of members or former members of the trade union or employers' association and to be so paid either out of the funds (whether the general funds or any other fund) of the trade union or employers' association or under any insurance scheme maintained out of those funds;
- (b) “appropriately qualified actuary”, in relation to a trade union or employers' association, means a person who is either a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries or is approved by the Certification Officer on the application of the trade union or employers' association as a person having actuarial knowledge; and
- (c) “separate fund” means a fund separate from the general funds of the trade union or employers' association.

SCHEDULE 2

Article 71(2).

THE NORTHERN IRELAND COMMISSIONER
FOR THE RIGHTS OF TRADE UNION MEMBERS

Terms of appointment

1.—(1) The appointment of a person to hold office as the Commissioner shall be for a term not exceeding five years; but previous appointment to that office shall not affect eligibility for re-appointment.

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

- (2) The Department may remove any person from the office of Commissioner if it is satisfied—
- (a) that that person has been adjudged bankrupt or that he has made a composition or arrangement with his creditors;
 - (b) that that person is incapacitated by physical or mental illness; or
 - (c) that that person is otherwise unable or unfit to discharge his functions as the Commissioner.
- (3) Subject to sub-paragraphs (1) and (2), the Commissioner shall hold and vacate office as such in accordance with the terms of his appointment.

Remuneration, pensions etc.

- 2.—(1) There shall be paid to the Commissioner such remuneration, and such travelling and other allowances, as the Department may determine.
- (2) In the case of any such holder of the office of the Commissioner as may be determined by the Department, there shall be paid such pension, allowance or gratuity to or in respect of him on his retirement or death, or such contributions or payments towards provision for such a pension, allowance or gratuity, as may be so determined.
- (3) If, when any person ceases to hold office as the Commissioner, the Department determines that there are special circumstances which make it right that he should receive compensation, there may be paid to him a sum by way of compensation of such amount as may be so determined.
- (4) The approval of the Department of Finance and Personnel shall be required for the making of a determination under this paragraph.

Staff

- 3.—(1) The Commissioner may, with the approval of the Department as to numbers and terms and conditions of service, appoint such staff as the Commissioner may determine.
- (2) The consent of the Department of Finance and Personnel shall be required for the giving of an approval under sub-paragraph (1).
- 4.—(1) Anything authorised or required by or under this Order to be done by the Commissioner may be done by any member of the staff of the Commissioner who is authorised for the purpose, whether generally or specially, by the Commissioner.
- (2) An authorisation given for the purposes of this paragraph shall continue to have effect during any vacancy in the office of Commissioner.
- 5.—(1) Employment as a member of the staff of the Commissioner shall be included among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972(2) may apply.
- (2) Where a person who is employed by the Commissioner and is by reference to that employment a participant in a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 becomes the Commissioner, the Department of Finance and Personnel may determine that his service as the Commissioner shall be treated for the purposes of the scheme as service as an employee of the Commissioner; and his rights under the scheme shall not be affected by any of the preceding provisions of this Schedule.

(2) 1972 NI 10

6. Part III of the Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972⁽³⁾ shall not require insurance to be effected by the Commissioner.

Payment of travelling expenses, etc., to applicants

7.—(1) The Commissioner may, with the approval of the Department, make such provision as the Commissioner considers appropriate for the payment by him to persons who apply for assistance under Article 72 of sums in respect of travelling and other expenses incurred by them in connection with their applications.

(2) The consent of the Department of Finance and Personnel shall be required for the giving of an approval under sub-paragraph (1). Financial provisions

8.—(1) The Department shall pay to the Commissioner such sums as the Department may determine are required by the Commissioner for the purpose of carrying out his functions.

(2) The approval of the Department of Finance and Personnel shall be required for the making of a determination under sub-paragraph (1).

9.—(1) It shall be the duty of the Commissioner—

- (a) to keep proper accounts and proper records in relation to the accounts;
- (b) to prepare in respect of each financial year a statement of accounts in such form as the Department may, with the approval of the Department of Finance and Personnel, direct; and
- (c) to send copies of each such statement to the Department and the Comptroller and Auditor General for Northern Ireland not later than the 30th November following the end of the financial year to which the statement relates.

(2) The Comptroller and Auditor General shall examine, certify and report on each statement of accounts sent to him by the Commissioner and shall send copies of that report to the Department.

(3) The Department shall lay before the Assembly a copy of each statement of accounts sent to it under sub-paragraph (1)(c) and of the report made by the Comptroller and Auditor General thereon under sub-paragraph (2).

Annual report

10.—(1) As soon as reasonably practicable after the end of each financial year the Commissioner shall prepare a report on his activities during that year and shall send a copy of that report to the Department.

(2) The Department shall lay a copy of every such report before the Assembly.

Miscellaneous

11. The Commissioner shall have an official seal for the authentication of documents required for the purposes of his functions.

12. In the Commissioner for Complaints Act (Northern Ireland) 1969⁽⁴⁾ in Part II of Schedule 1 (bodies subject to investigation), there shall be inserted (at the appropriate place) the following entry—

“Office of the Northern Ireland Commissioner for the Rights of Trade Union Members.”.

(3) 1972 NI 6

(4) 1969 c. 25 (N.I.)

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

13. In the Northern Ireland Assembly Disqualification Act 1975⁽⁵⁾ in Part III of Schedule 1 (other disqualifying offices), there shall be inserted (at the appropriate place) the following entry—
“Northern Ireland Commissioner for the Rights of Trade Union Members.”.

SCHEDULE 3

Article 81(3).

MODIFICATIONS OF PART X AS APPLYING TO AMALGAMATIONS AND TRANSFERS OF ENGAGEMENTS INVOLVING GREAT BRITAIN UNIONS

1. Subject to this Schedule, any reference in Part X to a trade union (except in Article 79) shall include a reference to a Great Britain union.

2.—(1) The requirements of Article 74 as to the approval of the instrument of amalgamation or transfer by a resolution of the trade union or trade unions concerned shall not apply to any Great Britain union, but the Certification Officer shall not under Article 74(5) register the instrument unless he is satisfied that the instrument will be effective under the law of Great Britain.

(2) In accordance with sub-paragraph (1), nothing in Article 75 or 77 shall apply in relation to the passing of a resolution by a Great Britain union.

3. Nothing in Article 76 shall apply in relation to the alteration of the rules of a Great Britain union.

4. Where an instrument of amalgamation or transfer is submitted to the Certification Officer for his approval under Article 74(4), the Certification Officer shall not give his approval unless the instrument states which of the bodies concerned is a Great Britain union, and, in the case of an instrument of amalgamation, shall not give his approval unless the instrument also states whether the resultant body is to be a trade union or a Great Britain union.

SCHEDULE 4

Article 82(2).

THE LABOUR RELATIONS AGENCY

PART I

THE CONSTITUTION OF THE AGENCY

1. The Agency shall be a body corporate to which section 19 of the Interpretation Act (Northern Ireland) 1954⁽⁶⁾ shall apply.

2. The Agency shall consist of the following persons appointed by the Head of the Department, namely—

(a) a chairman; and

(b) 9 other members of whom—

(i) 3 shall be appointed after consultation with such organisations or associations of organisations representative of employers as appear to the Head of the Department to be appropriate;

⁽⁵⁾ 1975 c. 25

⁽⁶⁾ 1954 c. 33 (N.I.)

- (ii) 3 shall be appointed after consultation with such organisations or associations of organisations representative of employees as appear to the Head of the Department to be appropriate; and
- (iii) 3 shall be appointed as appears to the Head of the Department to be appropriate.

3.—(1) A member of the Agency shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold his office, be eligible for re-appointment.

(2) Any member may at any time by notice in writing to the Head of the Department resign his office.

4. The Head of the Department may, by notice in writing addressed to a member, terminate his appointment as a member of the Agency if of the opinion that he is unfit to continue in office or incapable of performing his duties as a member.

5. The proceedings of the Agency shall not be invalidated by any vacancy in the membership of the Agency or by any defect in the appointment of any of its members.

6. The Agency shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown or as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local, and its property shall not be regarded as the property of, or property held on behalf of, the Crown.

PART II

SUPPLEMENTARY PROVISIONS AS TO THE AGENCY

Members

7. The Agency may pay, or make such payments towards the provision of, such remuneration, allowances (including allowances for expenses), pensions or gratuities to or in respect of the chairman and other members of the Agency, or any of them, as the Department, with the approval of the Department of Finance and Personnel, may determine.

8. In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975(7) the following entry shall continue to be inserted at the appropriate place in alphabetical order—
“The Labour Relations Agency.”.

Panel of advisers

9.—(1) The Agency may appoint a panel of persons, who are not members of the Agency, from whom it may from time to time select persons to assist it in the discharge of its functions.

(2) The number of persons which the Agency may appoint under this paragraph shall be determined by the Agency with the approval of the Department and the Department of Finance and Personnel.

(3) The Agency may pay to persons appointed under this paragraph such fees and such allowances for expenses as the Agency, with the approval of the Department and the Department of Finance and Personnel, may determine.

(7) 1975 c. 25

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

The seal

10. The fixing of the common seal of the Agency shall be authenticated by the signature of the chairman of the Agency or some other member thereof authorised either generally or specially by the Agency to act for that purpose.

Execution of contracts and instruments not under seal

11. Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Agency by any person generally or specially authorised by the Agency to act for that purpose and any document purporting to be such a contract or instrument shall be deemed to be such a contract or instrument until the contrary is proved.

Staff

12. The number of persons employed by the Agency and the terms and conditions of employment of such persons shall be determined by the Agency, with the approval of the Department and the Department of Finance and Personnel.

13. The Agency may, in the case of such persons employed by it as may be determined by the Agency with the approval of the Department and the Department of Finance and Personnel, pay to or in respect of them such pensions or gratuities, or provide and maintain for them such pension schemes (whether contributory or not) or contributory or other pension arrangements as may be so determined.

Financial provision

14. For the purpose of enabling the Agency to carry out its functions, the Department shall pay to the Agency such sums as the Department may, with the approval of the Department of Finance and Personnel, determine.

Accounts and audit

15.—(1) The Agency shall keep proper accounts, in such form as may be approved by the Department, and proper records in relation to the accounts.

(2) The Agency shall prepare in respect of each financial year a statement of accounts, in particular showing separately any sums disbursed to or on behalf of the Certification Officer in consequence of this Order, in such form as the Department, with the approval of the Department of Finance and Personnel, may direct.

(3) The accounts of the Agency shall be audited by auditors appointed by the Agency with the approval of the Department and shall be vouched to the satisfaction of such auditors.

(4) The Agency shall, at such time in each year as the Department may direct, transmit copies of the annual statement of accounts, certified by the auditors, to the Department and to the Comptroller and Auditor General for Northern Ireland.

(5) The Comptroller and Auditor General shall examine a copy of each annual statement of accounts and shall make a report thereon and shall send copies of that report to the Department and may in connection with such examination examine any accounts kept by the Agency and any records relating thereto.

Reports

16.—(1) The Agency shall, as soon as possible within a period of three months after the end of each financial year, make to the Head of the Department a report, in such form and containing such information as the Department may direct, on the performance of its functions during that financial year.

(2) The Head of the Department shall lay before the Assembly a copy of each report made to him under this paragraph together with a copy of each annual statement of accounts transmitted to the Department under paragraph 15(4) and of the report made by the Comptroller and Auditor General thereon under paragraph 15(5).

SCHEDULE 5

Article 108(1).

AMENDMENTS

PART I

MINOR AND CONSEQUENTIAL AMENDMENTS

The Social Security Pensions (Northern Ireland) Order 1975 (NI 15)

1. In Article 33(8) in the definition of “independent trade union” for the words from “means” to the end substitute “has the meaning assigned to it by Article 2(2) of the Industrial Relations (Northern Ireland) Order 1992”.

The Industrial Relations (Northern Ireland) Order 1976 (NI 16)

2.—(1) In Article 2(2), in the appropriate place in alphabetical order, insert the following definition—

““recognised”, in relation to a trade union, has the meaning assigned to it by Article 42(a) of the No. 2 Order”.

(2) In Article 2(2) for the definitions of “collective agreement” and “collective bargaining” substitute—

““collective agreement” and “collective bargaining” have the meanings assigned to them by Article 2(2) of the Industrial Relations (Northern Ireland) Order 1992”.

(3) In Article 2(2) for the definition of “trade dispute” substitute—

““trade dispute” has the meaning assigned to it by Article 2(4) to (7) of the Industrial Relations (Northern Ireland) Order 1992 for the purposes of that Order (except Part XI)”.

(4) In Article 22A for paragraph (15) substitute—

“(15) In this Article references to being, becoming or ceasing to remain a member of a trade union shall include references to being, becoming or ceasing to remain a member of a particular branch or section of that union and to being, becoming or ceasing to remain a member of one of a number of particular branches or sections of that union, and references to taking part in the activities of a trade union shall be similarly construed.”.

(5) In Article 62(1) for sub-paragraph (aa) substitute—

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

“(aa) arising out of a contravention, or alleged contravention, of Article 29 of the Industrial Relations (Northern Ireland) Order 1992 or of an infringement, or alleged infringement, of the right conferred by Article 34 of that Order; or”.

The Industrial Relations (No. 2) (Northern Ireland) Order 1976 (NI 28)

3.—(1) In Article 33 for paragraph (8) substitute—

“(8) In this Article references to being, becoming or ceasing to remain a member of a trade union shall include references to being, becoming or ceasing to remain a member of a particular branch or section of that union and to being, becoming or ceasing to remain a member of one of a number of particular branches or sections of that union, and references to taking part in the activities of a trade union shall be similarly construed.”.

(2) In Articles 37(2) and 38(3) for “Article 14A of the No. 1 Order” substitute “Article 90 of the Industrial Relations (Northern Ireland) Order 1992”.

(3) In Article 42 for paragraph (a) substitute—

“(a) a trade union shall be taken to be recognised by an employer if it is recognised by him, to any extent, for the purpose of collective bargaining”.

(4) In Article 60(4)—

(a) in the definition of “the corresponding Great British legislation” after “means” insert “the Employment Protection Act 1975 and”;

(b) in the definition of “the relevant Northern Irish legislation” after sub-paragraph (c) add
“and

(d) Part V of the Industrial Relations (Northern Ireland) Order 1992;”.

The Wages (Northern Ireland) Order 1988 (NI 7)

4.—(1) In paragraph (6) of Article 3 at the end add—

“; and where a certificate has been given by a worker to his employer for the purposes of Article 65 of the Industrial Relations (Northern Ireland) Order 1992 (deduction of contributions to a trade union’s political fund), nothing in the worker’s contract, or in any agreement or consent signified by the worker, shall be taken for the purposes of this Article as authorising the making of deductions in contravention of any obligation imposed on the employer in consequence of the giving of that certificate.”.

(2) After paragraph (3) of Article 7 insert—

“(3A) Where a deduction has been made in contravention of an obligation imposed on an employer in consequence of the giving of any certificate for the purposes of Article 65 of the Industrial Relations (Northern Ireland) Order 1992 (deduction of contributions to a trade union’s political fund)—

(a) no complaint under this Article shall be presented in respect of that deduction unless a declaration has been made under paragraph (4) of that Article, either before or after the date of payment of the wages from which the deduction was made, that the employer has failed to comply with the obligation imposed in consequence of the giving of that certificate; and

(b) paragraph (2) shall be read, in relation to any complaint in respect of that deduction or of a series of deductions of which that is the last, as referring, if it is

later, to the date of the declaration instead of to the date of payment of the wages from which the deduction was made.”.

(3) Nothing in this paragraph shall affect the operation of the Wages (Northern Ireland) Order 1988 in relation to any deduction from wages paid before the appointed day.

PART II

PRE-CONSOLIDATION AMENDMENTS

The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (c. 19)

- 5.—(1) The following provisions shall cease to have effect—
- (a) section 6(2), (5), (6), (7) and (8);
 - (b) section 7;
 - (c) in section 8 the words “any contract made before they come into force, and in relation to”;
 - (d) section 9(2);
 - (e) section 25(1);
 - (f) in section 25(2) the words “Without prejudice to subsection (1),”;
 - (g) in section 25(3) the words “, in the case of a contract made after the passing of this Act,”;
 - (h) section 26(5), (6) and (7);
 - (i) section 52(7);
 - (j) section 55(3);
 - (k) section 60(1) to (3) and (4)(a);
 - (l) section 63(2) and (4);
 - (m) section 64;
 - (n) in Schedule 1, paragraphs 4D(2) and (4) and 5(3);
 - (o) in Schedule 3, paragraph 9;
 - (p) Schedule 9.
- (2) In section 4 after subsection (11A) insert—
- “(11AA) References in subsections (9) to (11A) to weeks are to weeks within the meaning of Schedule 1.”.
- (3) In section 8 for “transferred” substitute “statutory”.
- (4) In section 25(2) after “or more” insert “entered into after 5th December 1965”.
- (5) In section 26 after subsection (4) insert—
- “(4A) In subsection (4) “overseas territory” means any territory or country outside the United Kingdom; and the reference to the Government of an overseas territory includes a reference to a Government constituted for two or more overseas territories and to any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more such territories.”.
- (6) In section 30(3) for “, seaman or apprentice” substitute “or a seaman”.
- (7) In section 32(1) for “enactment” substitute “statutory provision”.
- (8) After section 58 insert—

“Power to amend Act.

58A. The Department may by order—

- (a) provide that any provision contained in this Act which is specified in the order shall not apply to persons or to employments of such classes as may be prescribed by the order, or shall apply to persons or employments of such classes as may be prescribed by the order subject to such exceptions and modifications as may be so prescribed;
- (b) add to, vary, revoke or exclude the operation of any of the provisions of section 1(4A), 4(9) to (11A), 6(1) or 26(1) to (4).”.

(9) Renumber section 59 as subsection (1) of that section and after that subsection insert—

“(2) An order under section 58A or paragraph 4D(1) of Schedule 1 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 came into operation unless, before the expiration of that period, it is approved by a resolution of the Assembly.

(3) Regulations and orders under this Act may contain incidental, supplementary and transitional provisions.”.

(10) In section 63(1) for the definition of “tribunal” substitute—

““tribunal” means an industrial tribunal”.

(11) In section 63 for subsection (3) substitute—

“(3) Subject to subsection (3A), the provisions of Article 2(2) to (9) of the Industrial Relations (Northern Ireland) Order 1976, in so far as those provisions relate to the definition or interpretation of words or expressions used in that Order and in this Act, shall apply for the purposes of this Act as they apply for the purposes of that Order.

(3A) For the purposes of this Act the definition of “employee” in Article 2(2) of that Order shall have effect with the omission of the words “otherwise than in police service”.”.

(12) In Schedule 1 in paragraph 10(2) and (3) for “transferred provision” substitute “statutory provision”.

(13) In Schedule 8 insert the following entries at the appropriate places—

“Section 24(3)	The reference to the employer.
Section 47(2)	The third reference to the employer.
Section 47(5) and (6)	The references to the employer.”.

The Industrial Relations (Northern Ireland) Order 1976 (NI 16)

6.—(1) The following shall cease to have effect—

- (a) in Article 24(3) the words “or Article 24A(1)”;
- (b) Article 24A;
- (c) Article 25(a);
- (d) Article 30(2)(b);
- (e) in Article 39(10) in sub-paragraph (a) the word “employer's”;
- (f) in Article 43(4) the words “maternity pay under Part II of the No. 2 Order”;
- (g) Article 45(3C);
- (h) in Article 68(2) the words “or 24A” where they twice occur;

- (i) in Article 76(8) the words “, as an apprentice to the sea service,”;
 - (j) Article 82(3);
 - (k) Schedule 7.
- (2) Renumber Article 25 as paragraph (1) of that Article and after that paragraph add—
- “(2) Such an agreement as is mentioned in paragraph (1)(b) may be contained either in the contract itself or in a separate agreement.”.
- (3) In Article 38(2) for “in an action” substitute “on a complaint”.
- (4) In Article 41(4) for “President of Industrial Tribunals” substitute “President or Vice-President of the Industrial Tribunals and the Fair Employment Tribunal”.
- (5) In Article 42 for paragraph (6) substitute—
- “(6) A sum shall be taken to be reasonable for the purposes of paragraph (3)(e) in a case where a trustee in bankruptcy or liquidator has been or is required to be appointed if it is admitted to be reasonable by the trustee in bankruptcy or liquidator under Article 319 of the Insolvency (Northern Ireland) Order 1989 (effect of bankruptcy on apprenticeships, etc.), whether as originally enacted or as applied to the winding up of a company by rules under Article 359 of that Order.”.
- (6) In Articles 42(7) and 43(6) for the words from “one of the following” to the end substitute “the official receiver or an insolvency practitioner (within the meaning of the Insolvency (Northern Ireland) Order 1989) is acting or has been or is required to be appointed in connection with the employer’s insolvency, and references in the following provisions of this Article to the “relevant officer” are references to the official receiver or such an insolvency practitioner”.
- (7) In Article 58(2) after “this Order” where it first occurs substitute “or the Act of 1965”.
- (8) In Article 59(11) after “paragraph (2)(c)” insert “or (fa)” and for “(2)(d) or (fa)” substitute “(2)(d)”.
- (9) In Article 76(9) for “an apprentice or” substitute “a”.
- (10) In Article 76(11)(a) at the end add “or provide that any such provision shall apply to persons or employments of such classes as may be prescribed by the order subject to such exceptions and modifications as may be so prescribed”.

The Industrial Relations (No. 2) (Northern Ireland) Order 1976 (NI 28)

- 7.—(1) The following shall cease to have effect—
- (a) in Article 32, paragraph (a) of the definition of “week”;
 - (b) Article 41A(13);
 - (c) in Article 49(10) the words “, as an apprentice to the sea service,”;
 - (d) Article 61;
 - (e) Article 65(3);
 - (f) in Schedule 2, in paragraph 2(3)(a) the words “(except in Article 39)”;
 - (g) Schedule 6.
- (2) In Article 8(1) for “on whose proposal the order was made” substitute “making the order”.
- (3) In Article 30A(4) for “1972” substitute “1986”.
- (4) In Article 41(11)(b) for “paragraph (7)” substitute “paragraph (10)”.
- (5) In Article 49 after paragraph (8) insert—

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

“(8A) References in paragraphs (5) to (8) to weeks are to weeks within the meaning of Schedule 1 to the Act of 1965.”

(6) In Article 49(11)(a) at the end add “or provide that any such provision shall apply to persons or employments of such classes as may be prescribed by the order subject to such exceptions and modifications as may be so specified”.

(7) In Schedule 2, in paragraph 3(1)(b) for “sections 12(4)” substitute “sections 12(3)”.

(8) In Schedule 2, in paragraph 3(3) for “26(1) and (2)” substitute “26(1)”.

Industrial Relations (Northern Ireland) Order 1982 (NI 8)

8.—(1) The following shall cease to have effect—

- (a) Article 10(1);
- (b) Article 16(2);
- (c) Articles 22 and 23(2);
- (d) in Schedule 2, the amendments to Articles 24(3), 68(2) and 78 of the No. 1 Order;
- (e) Schedule 3.

Industrial Relations (Northern Ireland) Order 1987 (NI 9)

9. The following shall cease to have effect—

- (a) Article 4;
- (b) Article 25(2);
- (c) Schedule 1;
- (d) in Schedule 3, paragraph 4(3);
- (e) Schedule 4.

SCHEDULE 6

Article 108(3).

REPEALS

Chapter or Number	Short title	Extent of repeal
1871 c. 31.	The Trade Union Act 1871	The whole Act.
1875 c. 86.	The Conspiracy and Protection of Property Act 1875.	Section 4. Section 8. Section 14. Section 17. In section 21 the words from “with the modifications” to the end.
1876 c. 22.	The Trade Union Act Amendment Act 1876.	The whole Act.

Chapter or Number	Short title	Extent of repeal
1883 c. 47.	The Provident Nominations and Small Intestacies Act 1883.	The whole Act, so far as unrepealed.
1896 c. 25.	The Friendly Societies Act 1896.	The whole Act, so far as unrepealed.
1913 c. 30.	The Trade Union Act 1913.	The whole Act in so far as it applies to trade unions and unincorporated employers' associations which have their head or main office in Northern Ireland.
1919 c. 69.	The Industrial Courts Act 1919.	The whole Act.
1927 c. 20 (N.I.).	The Trade Disputes and Trade Unions Act (Northern Ireland) 1927.	The whole Act.
1948 c. 22 (N.I.).	The Industrial Assurance and Friendly Societies Act (Northern Ireland) 1948.	In section 6(1) the words “whether registered or unregistered” and the proviso. Section 6(2). Section 7.
1951 c. 5 (N.I.).	The Administration and Financial Provisions Act (Northern Ireland) 1951.	The whole Act, so far as unrepealed.
1957 c. 1 (N.I.).	The Friendly Societies Act (Northern Ireland) 1957.	Section 5.
1958 c. 30 (N.I.).	The Trade Disputes and Trade Unions Act (Northern Ireland) 1958.	The whole Act.
1965 c. 2(N.I.).	The Trade Union (Amalgamations, Etc.) Act (Northern Ireland) 1965.	The whole Act.
1965 c. 19(N.I.).	The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965.	In section 4(1A) the words from “and any reference in” to the end. Section 6(2) and (5) to (8). Section 7. In section 8 the words “any contract made before they come into force, and in relation to”. Section 9(2). Section 25(1).

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

Chapter or Number	Short title	Extent of repeal
		In section 25(2) the words “Without prejudice to subsection (1),”.
		In section 25(3) the words “, in the case of a contract made after the passing of this Act,”.
		Section 26(5) to (7).
		Section 52(7).
		Section 55(3).
		Section 60(1) to (3) and (4)(a).
		Section 63(2) and (4)
		Section 64.
		In Schedule 1, paragraphs 4D(2) and (4) and 5(3).
		In Schedule 3, paragraph 9.
		Schedule 9.
1967 c. 5 (N.I.).	The Administration of Estates (Small Payments) Act (Northern Ireland) 1967.	In Part I of Schedule 1, the entry relating to the Provident Nominations and Small Intestacies Act 1883.
		In Schedule 2, the entry relating to the Trade Union Act Amendment Act 1876.
		In Schedule 3, the amendments to the Provident Nominations and Small Intestacies Act 1883.
1969 c. 7 (N.I.).	The Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969.	In section 2(1)(a) the words “established by section 1 of the Industrial Courts Act 1919 and”.
1969 c. 28 (N.I.).	The Age of Majority Act (Northern Ireland) 1969.	In Part I of Schedule 1, the entry relating to the Trade Union Act Amendment Act 1876.
1972 c. 9 (N.I.).	The Local Government Act (Northern Ireland) 1972.	In Schedule 8, paragraph 4.
1972 NI 9.	The Electricity Supply (Northern Ireland) Order 1972.	Article 45.
1974 c. 52.	The Trade Union and Labour Relations Act 1974.	In Schedule 3, paragraph 11.

Chapter or Number	Short title	Extent of repeal
1975 NI 15.	The Social Security Pensions (Northern Ireland) Order 1975.	Article 33(9).
1976 NI 16.	The Industrial Relations (Northern Ireland) Order 1976.	<p>In Article 2(2) in the definition of “the Agency” the words “established by Article 4”.</p> <p>In Article 2(2) the definition of “procedural agreement”.</p> <p>Articles 3 to 19A.</p> <p>In Article 22A, in paragraph (1) the words “Subject to paragraph (3)”, paragraphs (3) to (13), and in paragraph (14) the words “and (3)(b)”.</p> <p>Article 22B.</p> <p>In Article 24(3) the words “or Article 24A(1)”.</p> <p>Article 24A.</p> <p>Article 25(a).</p> <p>Article 30(2)(b).</p> <p>In Article 39(10)(a), the word “employer's”.</p> <p>In Article 43(4) the words “maternity pay under Part II of the No. 2 Order”.</p> <p>Article 45(3C).</p> <p>Article 56(1).</p> <p>Articles 63, 64 and 64A.</p> <p>Article 66.</p> <p>In Article 68(2) the words “or 24A” where they twice occur.</p> <p>In Article 76(8) the words “, as an apprentice to the sea service,”.</p> <p>Article 77.</p> <p>In Article 78(1)(b) the words from “or from” to the end.</p> <p>Article 78(2)(f).</p> <p>In Article 79(1) the words “8 and”.</p>

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

Chapter or Number	Short title	Extent of repeal
1976 NI 28.	The Industrial Relations (No. 2) (Northern Ireland) Order 1976.	<p>Article 82(3).</p> <p>Schedule 1.</p> <p>In Schedule 5, Part III.</p> <p>Schedule 7.</p> <p>In Article 2(2) the definitions of “the Industrial Court” and “recognition”.</p> <p>In Article 2(3) the words “and 3”.</p> <p>In Article 32, paragraph (a) of the definition of “week”.</p> <p>In Article 33(1) the words “Subject to the following provisions of this Article,”.</p> <p>Article 33(5), (6) and (7).</p> <p>Article 37(3).</p> <p>Article 38(4).</p> <p>Article 41A(13).</p> <p>In Article 49(10) the words “, as an apprentice to the sea service,”.</p> <p>Part III.</p> <p>Article 55.</p> <p>In Article 59(1)(b) the words from “or from” to the end.</p> <p>Article 59(2)(d).</p> <p>In Article 60(4) the word “and” immediately preceding sub-paragraph (c).</p> <p>Article 61.</p> <p>In Article 62(1) the words in brackets.</p> <p>In Article 62(5), sub-paragraph (e) and in sub-paragraph (f) the word “other”.</p> <p>Article 65(3).</p> <p>In Schedule 2, in paragraph 2(3)(a) the words “(except in Article 39)” and in paragraphs</p>

Chapter or Number	Short title	Extent of repeal
		2(4) and 4(3) the words “22A(3) to (13), 22B”.
		In Schedule 4, paragraph 5(3) and (14).
		Schedule 6.
1978 NI 9.	The Health and Safety at Work (Northern Ireland) Order 1978.	In Schedule 6, paragraph 2(a).
1979 NI 13.	The Industrial Assurance (Northern Ireland) Order 1979.	In Schedule 8, the amendments to the Industrial Assurance and Friendly Societies Act (Northern Ireland) 1948.
1982 NI 8.	The Industrial Relations (Northern Ireland) Order 1982.	Article 2(2).
		Articles 3 to 7.
		Article 10(1).
		Article 16(2)
		Articles 18 and 19.
		Article 22.
		Article 23(2).
		In Schedule 2, the amendments to Articles 14A, 24(3), 62(1), 68(2) and 78 of the No. 1 Order.
		Schedule 3.
1984 NI 9.	The Industrial Training (Northern Ireland) Order 1984.	In Schedule 3, paragraph 11.
1987 NI 9.	The Industrial Relations (Northern Ireland) Order 1987.	Article 4.
		Articles 13 to 21.
		Article 25(2).
		Schedule 1.
		In Schedule 2, paragraph 2(3).
		In Schedule 3, paragraphs 1, 2 and 4(3) and (13).
		Schedule 4.
1987 NI 20.	The Consumer Protection (Northern Ireland) Order 1987.	In Schedule 3, paragraph 7.