



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART I

TRADE UNIONS

[^{F1}CHAPTER VIIA

BREACH OF RULES]

[^{F1}108A Right to apply to Certification Officer.

- (1) A person who claims that there has been a breach or threatened breach of the rules of a trade union relating to any of the matters mentioned in subsection (2) may apply to the Certification Officer for a declaration to that effect, subject to subsections (3) to (7).
- (2) The matters are—
 - (a) the appointment or election of a person to, or the removal of a person from, any office;
 - (b) disciplinary proceedings by the union (including expulsion);
 - (c) the balloting of members on any issue other than industrial action;
 - (d) the constitution or proceedings of any executive committee or of any decision-making meeting;
 - (e) such other matters as may be specified in an order made by the Secretary of State.
- (3) The applicant must be a member of the union, or have been one at the time of the alleged breach or threatened breach.
- (4) A person may not apply under subsection (1) in relation to a claim if he is entitled to apply under section 80 in relation to the claim.

Changes to legislation: *Trade Union and Labour Relations (Consolidation) Act 1992, Section 108A is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (5) No application may be made regarding—
- (a) the dismissal of an employee of the union;
 - (b) disciplinary proceedings against an employee of the union.
- (6) An application must be made—
- (a) within the period of six months starting with the day on which the breach or threatened breach is alleged to have taken place, or
 - (b) if within that period any internal complaints procedure of the union is invoked to resolve the claim, within the period of six months starting with the earlier of the days specified in subsection (7).
- (7) Those days are—
- (a) the day on which the procedure is concluded, and
 - (b) the last day of the period of one year beginning with the day on which the procedure is invoked.
- (8) The reference in subsection (1) to the rules of a union includes references to the rules of any branch or section of the union.
- (9) In subsection (2)(c) “industrial action” means a strike or other industrial action by persons employed under contracts of employment.
- (10) For the purposes of subsection (2)(d) a committee is an executive committee if—
- (a) it is a committee of the union concerned and has power to make executive decisions on behalf of the union or on behalf of a constituent body,
 - (b) it is a committee of a major constituent body and has power to make executive decisions on behalf of that body, or
 - (c) it is a sub-committee of a committee falling within paragraph (a) or (b).
- (11) For the purposes of subsection (2)(d) a decision-making meeting is—
- (a) a meeting of members of the union concerned (or the representatives of such members) which has power to make a decision on any matter which, under the rules of the union, is final as regards the union or which, under the rules of the union or a constituent body, is final as regards that body, or
 - (b) a meeting of members of a major constituent body (or the representatives of such members) which has power to make a decision on any matter which, under the rules of the union or the body, is final as regards that body.
- (12) For the purposes of subsections (10) and (11), in relation to the trade union concerned—
- (a) a constituent body is any body which forms part of the union, including a branch, group, section or region;
 - (b) a major constituent body is such a body which has more than 1,000 members.
- (13) Any order under subsection (2)(e) shall be made by statutory instrument; and no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (14) If a person applies to the Certification Officer under this section in relation to an alleged breach or threatened breach he may not apply to the court in relation to the breach or threatened breach; but nothing in this subsection shall prevent such a person from exercising any right to appeal against or challenge the Certification Officer’s decision on the application to him.

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(15) If—

- (a) a person applies to the court in relation to an alleged breach or threatened breach, and
- (b) the breach or threatened breach is one in relation to which he could have made an application to the Certification Officer under this section,

he may not apply to the Certification Officer under this section in relation to the breach or threatened breach.]

Textual Amendments

F1 S. 108A-C of Chapter VIIA Pt. I and chapter heading inserted (25.10.1999) by 1999 c. 26, s. 29, Sch. 6 paras. 1, 19; S.I. 1999/2830, art. 2(1), Sch. 1 Pt. I (with Sch. 3 para. 5)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 212A(1)(zb) inserted by [2023 c. 46 Sch. para. 1](#)