



Criminal Justice and Public Order Act 1994

1994 CHAPTER 33

PART VIII

PRISON SERVICES AND THE PRISON SERVICE

CHAPTER IV

THE PRISON SERVICE

126 Service in England and Wales and Northern Ireland.

- (1) The relevant employment legislation shall have effect as if an individual who as a member of the prison service acts in a capacity in which he has the powers or privileges of a constable were not, by virtue of his so having those powers or privileges, to be regarded as in police service for the purposes of any provision of that legislation.
- (2) In this section “the relevant employment legislation” means—
 - [^{F1}(a) the Trade Union and Labour Relations (Consolidation) Act 1992 and the Employment Rights Act 1996;]
 - [^{F2}(b) the Trade Union and Labour Relations (Northern Ireland) Order 1995 and the Employment Rights (Northern Ireland) Order 1996.]
- (3) For the purposes of this section a person is a member of the prison service if he is an individual holding a post to which he has been appointed for the purposes of section 7 of the ^{M1}Prison Act 1952 or under section 2(2) of the ^{M2}Prison Act (Northern Ireland) 1953 (appointment of prison staff).
- (4) Except for the purpose of validating anything that would have been a contravention of section 127(1) below if it had been in force, subsection (1) above, so far as it relates to the question whether an organisation consisting wholly or mainly of members of the prison service is a trade union, shall be deemed always to have had effect and to have

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applied, in relation to times when provisions of the relevant employment legislation were not in force, to the corresponding legislation then in force.

(5) Subsection (6) below shall apply where—

- (a) the certificate of independence of any organisation has been cancelled, at any time before the passing of this Act, in consequence of the removal of the name of that organisation from a list of trade unions kept under provisions of the relevant employment legislation; but
- (b) it appears to the Certification Officer that the organisation would have remained on the list, and that the certificate would have remained in force, had that legislation had effect at and after that time in accordance with subsection (1) above.

(6) Where this subsection applies—

- (a) the Certification Officer shall restore the name to the list and delete from his records any entry relating to the cancellation of the certificate;
- (b) the removal of the name from the list, the making of the deleted entry and the cancellation of the certificate shall be deemed never to have occurred; and
- (c) the organisation shall accordingly be deemed, for the purposes for which it is treated by virtue of subsection (4) above as having been a trade union, to have been independent throughout the period between the cancellation of the certificate and the deletion of the entry relating to that cancellation.

Textual Amendments

- F1** S. 126(2)(a) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 65** (with ss. 191-195, 202)
- F2** S. 126(2)(b) substituted (N.I.) (24.9.1996) by S.I. 1996/1919 (N.I. 16), arts. 255, 256, **Sch. 1** (with savings and transitional provisions in **Sch. 2**)
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Marginal Citations

- M1** 1952 c. 52.
- M2** 1953 c. 18 (N.I.).

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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. 51(10)(a)(ia) inserted by [2003 c. 44 Sch. 36 para. 11\(3\)](#)