
STATUTORY INSTRUMENTS

2021 No. 1373

**The Trade Union Act 2016 (Commencement
No. 4 and Transitional) Regulations 2021**

PART 3

Transitional provisions

Transitional provisions in relation to section 256C (Investigatory powers) and Schedule A3 (Certification Officer: Investigatory Powers) of the 1992 Act

5. The powers at section 256C of, and Schedule A3 to, the 1992 Act, inserted by section 17(1) and (2) of the 2016 Act, apply only where the failure of the trade union to comply with any of the relevant obligations listed in paragraph 1(1)(a) to (g) of Schedule A3 to the 1992 Act, which is the subject of an investigation of the Certification Officer, occurs on or after 1st April 2022.

6. The powers at section 256C of, and Schedule A3 to, the 1992 Act, inserted by section 17(1) and (2) of the 2016 Act, apply to unincorporated employers' associations by virtue of section 132 or 133 of the 1992 Act only where the failure to comply with any of the relevant obligations listed in paragraph 1(1)(d) to (g) of Schedule A3 to the 1992 Act, which is the subject of an investigation of the Certification Officer, occurs on or after 1st April 2022.

Transitional provision in relation to section 45C (Remedies and enforcement) of the 1992 Act

7. The amendments made to section 45C of the 1992 Act by section 17(3) of, and paragraph 1 of Schedule 2 to, the 2016 Act apply only where the failure of the trade union to comply with the requirements of section 45B of the 1992 Act, which is the subject of the application to the Certification Officer or the court or of the exercise of powers by the Certification Officer, occurs on or after 1st April 2022.

Transitional provision in relation to section 54 (Remedy for failure to comply with requirements: general) of the 1992 Act

8. The amendments made to section 54 of the 1992 Act by section 17(3) of, and paragraph 2 of Schedule 2 to, the 2016 Act apply only where the failure of the trade union to comply with the requirements of Chapter 4 of Part 1 of the 1992 Act, which is the subject of the application to the Certification Officer or the court or of the exercise of powers by the Certification Officer, occurs on or after 1st April 2022.

Transitional provision in relation to section 55 (Powers of Certification Officer) of the 1992 Act

9. The amendments made to section 55 of the 1992 Act by section 17(3) of, and paragraph 3 of Schedule 2 to, the 2016 Act apply only where the failure of the trade union to comply with the requirements of Chapter 4 of Part 1 of the 1992 Act, which is the subject of the application to the

Certification Officer or of the exercise of powers by the Certification Officer, occurs on or after 1st April 2022.

Transitional provision in relation to section 72A (Application of funds in breach of section 71) of the 1992 Act

10. The amendments made to section 72A of the 1992 Act by section 17(3) of, and paragraph 4 of Schedule 2 to, the 2016 Act apply only where the breach by the trade union of section 71 of the 1992 Act, which is the subject of the application to the Certification Officer or of the exercise of powers by the Certification Officer, occurs on or after 1st April 2022.

Transitional provision in relation to section 79 (Remedy for failure to comply with ballot rules: general) of the 1992 Act

11. The amendments made to section 79(1) of the 1992 Act by section 17(3) of, and paragraph 5 of Schedule 2 to, the 2016 Act apply only where the trade union's or unincorporated employers' association's holding of a ballot on a political resolution or failure to comply with political ballot rules, which is the subject of the application to the Certification Officer or the court or of the exercise of powers by the Certification Officer, occurs on or after 1st April 2022.

Transitional provision in relation to section 80 (Powers of Certification Officer) of the 1992 Act

12. The amendments made to section 80(2) of the 1992 Act by section 17(3) of, and paragraph 6 of Schedule 2 to, the 2016 Act apply only where the trade union's or unincorporated employers' association's holding of a ballot on a political resolution or failure to comply with political ballot rules, which is the subject of the application to the Certification Officer or of the exercise of powers by the Certification Officer, occurs on or after 1st April 2022.

Transitional provision in relation to section 82 (Rules as to political fund) of the 1992 Act

13. The amendments made to section 82(3) of the 1992 Act by section 17(3) of, and paragraph 7 of Schedule 2 to, the 2016 Act apply only where the breach by the trade union or unincorporated employers' association of a rule made in pursuance of section 82 of the 1992 Act, which is the subject of the complaint to the Certification Officer or of the exercise of powers by the Certification Officer, occurs on or after 1st April 2022.

Transitional provision in relation to section 103 (Powers of Certification Officer as regards passing of resolution) of the 1992 Act

14. The amendments made to section 103(4) of the 1992 Act by section 17(3) of, and paragraph 8 of Schedule 2 to, the 2016 Act apply only where the failure of the trade union or unincorporated employers' association to comply with the requirements of sections 99 to 100E of the 1992 Act or with any rule of the trade union or unincorporated employers' association relating to the passing of a resolution, which is the subject of the application to the Certification Officer or of the exercise of powers by the Certification Officer, occurs on or after 1st April 2022.

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- (1) Section 79 also applies to unincorporated employers' associations by virtue of section 132 of the 1992 Act.
(2) Part of section 80 also applies to unincorporated employers' associations by virtue of section 132 of the 1992 Act.
(3) Section 82 also applies to unincorporated employers' associations by virtue of section 132 of the 1992 Act.
(4) Part of section 103 also applies to unincorporated employers' associations by virtue of section 133 of the 1992 Act.

Transitional provision in relation to sections 24B(12), 25(10), 31(5), 45C(9), 55(9), 72A(9), 80(9), 82(4B) and 108B(8) of the 1992 Act

15. The amendments made to sections 24B(12), 25(10), 31(5), 45C(9), 55(9), 72A(9), 80(9), 82(4B) and 108B(8)(5) of the 1992 Act by section 19(4) of the 2016 Act apply only to orders made by the Certification Officer on or after 1st April 2022.

Transitional provision in relation to sections 45D, 56A, 95, 104 and 108C of the 1992 Act

16. The amendments made to sections 45D, 56A, 95, 104 and 108C(6) of the 1992 Act by section 21 of the 2016 Act apply only to an appeal against a decision of the Certification Officer where that decision was made on or after 1st April 2022.

(5) Sections 82(4B) and 108B(8) also apply to unincorporated employers' associations by virtue of section 132 and section 133 of the 1992 Act respectively.

(6) Section 95 also applies to unincorporated employers' associations by virtue of section 132 of the 1992 Act. Sections 104 and 108C also apply to unincorporated employers' associations by virtue of section 133 of the 1992 Act.