



Isle of Man

Ellan Vannin

AT 20 of 1991

TRADE UNIONS ACT 1991



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**Isle of Man***Ellan Vannin*

TRADE UNIONS ACT 1991

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AN ACT to make new provision relating to trade unions, employers' associations and trade disputes; and for connected purposes.

Registration of trade unions and employers' associations

1 Trade unions and employers' associations to be registered

- (1) No trade union or employers' association, and no official or member of a trade union or employers' association, shall do any act in furtherance of the purposes for which the union or association is formed unless it has first been registered in accordance with this Act.
- (2) [Repealed]¹
- (3) The Department for Enterprise may by order provide that a trade union or employers' association specified in the order, being a body established or constituted by a statutory provision or a resolution of Tynwald, shall be deemed for such purpose or purposes as may be so specified, or for all purposes, to be registered in accordance with this Act.²
- (4) An order under subsection (3) —
 - (a) shall not have effect unless it is approved by Tynwald; and
 - (b) shall not affect any right, privilege, obligation or liability acquired, accrued or incurred before the date on which it comes into operation.³

2 Registration of trade unions and employers' associations

- (1) The Registrar General shall maintain a register of trade unions and a register of employers' associations in the prescribed form.⁴
- (2) In relation to every registered trade union or employers' association the register shall include the following particulars —

- (a) the name of the trade union or employers' association;
 - (b) the name and address in the Island of an official of the trade union or employers' association who is resident in the Island;
 - (c) an address in the Island for the service of notices and other proceedings on the trade union or employers' association; and
 - (d) such other particulars as may be prescribed.
- (3) Any 7 or more members of a trade union or employers' association, or any official of the union or association duly authorised for the purpose, may apply to the Registrar General for registration of the trade union or employers' association.⁵
- (4) Any such application shall be in the prescribed form and include the particulars specified in subsection (2), and shall be accompanied by the prescribed fee and a copy of the rules of the trade union or employers' association, signed by the applicants.
- (5) In the case of a United Kingdom union, the application shall include an undertaking by the union to comply with any order, award, injunction, direction or other judgment (whether interim or final) in any proceedings in a court of competent jurisdiction in the Island to which the union is a party.
- (6) If the Registrar General is not satisfied that the applicants are duly authorised to apply for registration or, where subsection (5) applies, to give the undertaking required by that subsection, he shall refuse to register the trade union or employers' association, and shall notify the applicants in writing of the ground of refusal.⁶
- (7) If the Registrar General is satisfied that –
 - (a) the purposes of the trade union or employers' association are unlawful; or
 - (b) the application is not in accordance with this section or regulations; or
 - (c) the name of the trade union or employers' association is the same as the name by which another existing trade union or employers' association has been registered, or so nearly resembles such a name as to be likely to mislead any person;he shall refuse to register the trade union or employers' association, and shall notify the applicants in writing of the ground of refusal.⁷
- (8) Subject to subsections (6) and (7), the Registrar General shall enter the trade union or employers' association in the appropriate register, and shall issue to the applicants a certificate of registration in the prescribed form.⁸

2A Organisations ineligible for registration

- (1) Where, on an application for registration in respect of an organisation, the Registrar General, after —
 - (a) giving the applicants an opportunity to make representations in writing to him, and
 - (b) considering any representations so made,is satisfied that the organisation is not a trade union or an employers' association, he shall (subject to subsection (4)) refuse to register the organisation as a trade union or as an employers' association, as the case may be.⁹
- (2) Where the Registrar General refuses to register an organisation under subsection (1), he shall certify in writing that, on the information provided to him in the application for registration and in any representations made under that subsection, he is satisfied that the organisation is not a trade union or an employers' association, as the case may be.¹⁰
- (3) There shall be annexed to a certificate under subsection (2) a certified copy of —
 - (a) the application for registration;
 - (b) the rules of the organisation (as supplied under section (2(4))); and
 - (c) any representations made under subsection (1);and the certificate shall be conclusive evidence in any legal proceedings that the organisation to which it relates was not, at the date thereof, a trade union or an employers' association, as the case may be.
- (4) The Registrar General may, after considering representations in accordance with subsection (1), refer to the High Court the question whether an organisation is a trade union or an employers' association, as the case may be; and on a reference under this subsection the High Court may, after giving the applicants and any other persons appearing to the Court to be interested an opportunity to be heard, direct the Registrar General to register or not to register the organisation and, where appropriate, to issue a certificate under subsection (2).^{11 12}

3 Amendment of registration

- (1) Any 7 or more members of a registered trade union or registered employers' association, or any official of the union or association duly authorised for the purpose, may apply to the Registrar General for the amendment of the register —
 - (a) on any change in the particulars entered in the register in relation to the union or association; and
 - (b) on any amendment of the rules of the union or association.¹³

- (2) Section 2(4) and (6) to (8) applies to an application under this section as it applies to an application for registration of a trade union or employers' association, except that a copy of the rules need not accompany an application under subsection (1)(a).
- (3) [Repealed]¹⁴

4 Cancellation of registration

- (1) The Registrar General may cancel the registration of a trade union or employers' association —
 - (a) at the request of the union or association, evidenced in such manner as he may direct; or
 - (b) if he is satisfied —
 - (i) that the registration has been obtained by fraud or mistake, or
 - (ii) that the purposes of the union or association are or have become unlawful, or
 - (iii) [Repealed]¹⁵
 - (iv) in the case of a United Kingdom union, that the union has failed to comply with an undertaking under section 2(5), or
 - (v) that the union or association, after notice in writing by the Registrar General, has failed to comply with section 6, or¹⁶
 - (vi) that the union or association has ceased to exist.¹⁷
- (2) Not less than 2 months before cancelling the registration of a trade union or employers' association the Registrar General, except where he is satisfied that it has ceased to exist, shall notify the union or association of his intention to do so, stating the grounds for so doing.¹⁸

5 Appeals

- (1) Any person who has made an application to the Registrar General under section 2 or 3 may appeal to the High Court against the refusal of the application; but no appeal shall lie against the refusal of an application pursuant to a direction under section 2A(4).¹⁹
- (2) Any trade union or employers' association may appeal to the High Court against the cancellation or intended cancellation of its registration under section 4.
- (2A) Where an appeal under subsection (2) is made within the period of 2 months beginning with the date on which notification of the intended cancellation is given under section 4(2), the Registrar General shall not cancel the registration until the appeal is determined or abandoned.²⁰

- (3) On an appeal under this section the High Court, if it is satisfied that the registration should have been made or amended, or should not be cancelled, as the case may be, shall declare accordingly and give any necessary directions to the Registrar General.²¹

6 Accounts and returns

- (1) Every trade union or employer's association shall —
- (a) cause to be kept with respect to its transactions and its assets and liabilities such records as are necessary to give a true and fair view of the state of affairs of the union or association and to explain its transactions; and
 - (b) establish and maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and remittances.
- (2) Every trade union or employers' association shall, within such time as may be prescribed, send to the Registrar General as respects every calendar year a return in the prescribed form relating to its affairs, including the number of its members at the end of that year or at such other date as may be prescribed.²²
- (3) Every trade union or employers' association shall appoint an auditor or auditors to audit the accounts contained in its annual return.
- (4) Every trade union or employers' association shall at the request of any member of the union or association supply him with a copy of its rules and of its most recent annual return either free of charge or on payment of a reasonable charge.
- (5) Where a trade union or employers' association consists of branches or sections, then —
- (a) any duty under this section falling upon the union or association in relation to a branch or section shall be treated as having been discharged to the extent to which a branch or section discharges that duty instead of the union or association;
 - (b) any duty under this section falling upon a branch or section by reason of its being a trade union or employers' association shall be treated as having been discharged to the extent to which the union or association of which it is a branch or section discharges that duty instead of the branch or section.
- (6) An order under section 1(3) may provide that the provisions of this section —
- (a) shall not apply to the trade union or employers' association specified in the order, or
 - (b) shall not so apply except to such extent as is so specified.²³

7 Regulations

- (1) The Department for Enterprise may by regulations —
 - (a) prescribe anything which by sections 1 to 6 is required to be prescribed;
 - (b) make further provisions for the registration of trade unions and employers' associations, in particular for the inspection of rules, annual returns and other documents delivered to the Registrar General under those sections;²⁴
 - (c) provide for the qualifications, appointment, removal and functions of auditors of trade unions and employers' associations.²⁵
- (2) Regulations under this section may make special provision for United Kingdom unions.
- (3) Regulations under this section shall not have effect unless they are approved by Tynwald.

Status and immunities of trade unions etc

8 Status of trade unions and employers' associations

[P1974/52/2 and 3]

- (1) Where a trade union or employers' association is unincorporated —
 - (a) it is capable of making contracts;
 - (b) all property belonging to the union or association shall be vested in trustees in trust for the union or association;
 - (c) subject to subsection (2), the union or association shall be capable of suing or being sued in its own name, whether in proceedings relating to property or founded on contract or tort or any other cause of action whatsoever;
 - (d) proceedings for any offence alleged to have been committed by the union or association or on its behalf may be brought against the union or association in its own name; and
 - (e) any judgment, order or award made in proceedings of any description brought against the union or association shall be enforceable against any property held in trust for the union or association;

to the like extent and in like manner as if the union or association were a body corporate.
- (2) A trade union or employers' association which is neither registered nor incorporated shall not be capable of suing in its own name.

9 Restraint of trade

[P1974/52/2(5) and 3(5)]

The purposes of a registered trade union or a registered employers' association, so far as they relate to the regulation of relations between employers or employers' associations and workers, or between employers and workers or trade unions, as the case may be, shall not, by reason only that they are in restraint of trade, be unlawful —

- (a) so as to make any member of the union or association liable to criminal proceedings for an offence under section 330 (conspiracy) of the Criminal Code 1872; or
- (b) so as to render voidable any agreement or trust;

nor shall any rule of a registered trade union or a registered employers' association, in so far as it so relates, be unlawful or unenforceable by reason only that it is in restraint of trade.

Immunities in respect of industrial action

10 Breach of contract by industrial action

- (1) A worker shall not be liable in damages to his employer for a breach of his contract of employment consisting of —
 - (a) a cessation of work, or
 - (b) a refusal to work, or
 - (c) a refusal to work in a manner lawfully required by his employer, in contemplation or furtherance of a trade dispute.
- (2) This section does not affect —
 - (a) any right or remedy of the employer, other than a remedy specified in subsection (1), or
 - (b) any other liability of the worker, arising out of a breach of a contract of employment.

11 Acts in contemplation or furtherance of trade disputes

[P1974/52/13; P1976/7/3]

- (1) Subject to the following provisions of this Act, 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 2 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) An agreement or combination by 2 or more persons to do or procure the doing of any act in contemplation or furtherance of a trade dispute shall not constitute an offence under section 330 (conspiracy) of the Criminal Code 1872 if such an act committed by one person would not be a crime.

12 Liability of unregistered union or association

Subject to section 20, nothing in section 11 prevents an act done by a trade union or employers' association, or by an official of a trade union or employers' association, from being actionable in tort if at the time of the act the union or association was not registered.

13 Requirement for ballot

[P1984/49/10]

- (1) Nothing in section 11 prevents 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 section 11 prevents 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 a contract (other than a contract of employment) or to interfere with its performance where —
 - (a) one of the facts relied on 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 subsection (1), nothing in section 11 would prevent the act or inducement referred to in paragraph (a) from being actionable in tort.
- (3) For the purpose of subsection (1), an act shall be taken as having been done with the support of a ballot if, and only if, —
 - (a) the trade union, after notifying the employer and an industrial relations officer of its intention to hold a ballot at least 7 days prior to holding it, has held a ballot in respect of the strike or other industrial action in the course of which the breach or interference referred to in subsection (1) occurred;²⁶

- (b) the majority of those voting in the ballot have answered “Yes” to the question specified in paragraph 2(2)(a) or (b), as the case may be, of Schedule 1;
 - (ba) the trade union has, as soon as reasonably practicable, notified all persons entitled to vote in the ballot, the employer and an industrial relations officer, of the result of the ballot (in this section referred to as “the official ballot result”), namely —
 - (a) the number of persons entitled to vote in the ballot;
 - (b) the number of votes cast in the ballot;
 - (c) the number of individuals voting “Yes”;
 - (d) the number of individuals voting “No”;
 - (e) the number of spoiled ballot papers;²⁷
 - (bb) the trade union has taken such steps as are reasonably necessary to ensure that the employer and an industrial relations officer receive notification of industrial action within the appropriate period;²⁸
 - (c) the first authorisation or endorsement of any relevant act, and (in the case of an authorisation) the act itself, took place —
 - (i) after the expiry of 7 days beginning with the day on which the employer and an industrial relations officer received notification of industrial action under paragraph (bb) ; and²⁹
 - (ii) before the expiry of the period of 5 weeks (or, where a direction is given under subsection (5), 6 weeks) beginning with the date of the ballot; and³⁰
 - (d) Schedule 1 has been satisfied in relation to the ballot.
- (3A) In the case of subsection (3)(a) notification is satisfied by the receipt by the employer and an industrial relations officer of a copy of a notice in writing —
- (a) stating that the union intends to hold the ballot,
 - (b) specifying the date which the union reasonably believes will be the opening day of the ballot,
 - (c) containing a list of the categories of employee to which the affected employees belong, and
 - (d) containing a list of the workplaces at which the affected employees work.³¹
- (3B) In the case of subsection (3)(ba) notification is satisfied by the receipt by the employer and an industrial relations officer of a copy of the official ballot result.³²
- (3C) In the case of subsection (3)(bb) notification is satisfied by the receipt by the employer and an industrial relations officer of a notice in writing —

- (a) containing a list of the categories of employee to which the affected employees belong,
 - (b) containing a list of the workplaces at which the affected employees work, and
 - (c) stating whether industrial action is intended to be continuous or discontinuous and specifying –
 - (i) where it is to be continuous, the intended date for any of the affected employees to begin to take part in the action, and
 - (ii) where it is to be discontinuous, the intended dates for any of the affected employees to take part in the action.³³
- (3D) For the purposes of subsection (3)(bb) the appropriate period is the period beginning with the day when the trade union satisfies the requirement of subsection (3)(ba) and ending with the seventh day before the day or before the first of the days specified in the notification.³⁴
- (4) In subsection (3)(c) a “relevant act” is any act (done in the course of the action mentioned in subsection (3)(a)) of inducing a person to break his contract of employment or to interfere with its performance; and an “authorisation or endorsement” of a relevant act is an authorisation or endorsement of the act which, by virtue of section 20, causes the act to be taken, for the purposes mentioned in that section, to have been done by the trade union.
- (5) Before the expiry of the period of 7 days specified in subsection (3)(c)(i) in relation to notification by the union of industrial action, an industrial relations officer may direct that the period shall be extended by a further period of 7 days; but no more than one such direction may be given in relation to any one ballot.³⁵
- (6) In this section any reference to a breach or interference occurring in the course of a strike or other industrial action includes a reference to a breach or interference which, taken together with any corresponding action in relation to other contracts of employment, constitutes that action.
- (7) A ballot shall not be invalid for the purposes of this section merely on the ground that the members of the trade union voting in the ballot include members whose place of work is in a country or territory outside the Island, but any vote by such a member shall be disregarded for the purposes of this section and Schedule 1.
- (8) For the purposes of this section “contract of employment” includes any contract under which one person personally does work or performs services for another.

14 Ballot in essential services

- (1) The Council of Ministers may by order designate the supply of any goods or of any service for the purpose of this section, if it appears to it that the disruption by industrial action of that supply is likely —
- (a) to deprive the community of the essentials of life, or
 - (b) to endanger the life, health or personal safety of the whole or any part of the community;³⁶
- and in this section “essential service” means a supply designated by an order under this subsection.³⁷
- (2) An order under subsection (1) shall not have effect unless it is approved by Tynwald.
- (3) Subsections (4) to (8) apply to a trade dispute (whether existing or apprehended), some or all of the parties to which are engaged in an essential service.
- (4) Subject to subsection (5), the Council of Ministers may at any time direct, in relation to a trade dispute to which this subsection applies and which is specified in the direction, that section 13(3)(c) shall have effect with the substitution for sub-paragraphs (i) and (ii) of —
- “(i) after the expiry of a period beginning with the day on which the employer and an industrial relations officer received notification of industrial action within the meaning of section 13(3)(bb) and ending on the notification to the trade union of the decision of a court of inquiry under section 3A(3) of the *Trade Disputes Act 1985*; ³⁸and
 - (ii) before the expiry of the period of 6 weeks beginning on that day; and”.³⁹
- (5) A direction under subsection (4) may not be given in relation to a trade dispute if the Council of Ministers is satisfied⁴⁰ —
- (a) that all the parties are engaged in negotiations with a view to settling the dispute, and
 - (b) either —
 - (i) that none of the parties is likely to resort to industrial action in the course of the dispute; or
 - (ii) that industrial action in the course of the dispute is not likely to cause such disruption as will have the effect mentioned in subsection (1).
- (6) If it appears to the Council of Ministers that⁴¹ —
- (a) industrial action by some (but not all) of the parties to the dispute who might take such action, or
 - (b) industrial action of one kind (but not of another kind),

would be likely to cause such disruption as will have the effect mentioned in subsection (1), a direction under subsection (4) may be expressed to apply in relation to some (but not all) of those parties, or to industrial action of one kind (but not of another kind), as the case may be.

- (7) A direction under subsection (4) shall not apply in the case of a ballot where the cooling-off period has expired before the direction is notified to the trade union in question, but without prejudice to its effect in the case of a subsequent ballot.

In this subsection “the cooling-off period”, in relation to a ballot, means the period of 7 days referred to in section 13(3)(c)(i), or that period as extended under section 13(5), as the case may be.

- (8) If it appears to the Council of Ministers that a trade dispute in relation to which a direction under this section has been given has been settled (whether as between all the parties to the dispute or as between some of them), it shall withdraw the direction, either as respects all the parties or as respects some of them, as the case may require.⁴²

15 [Inserts section 3A in the Trade Disputes Act 1985.]

16 Industrial action in support of closed shop

Nothing in section 11 prevents an act from being actionable in tort on a ground specified in section 11(1)(a) or (b) where it constitutes, or is one of a number of acts which together constitute, an inducement or attempted inducement of a person —

- (a) not to employ, or to restrict the employment of, persons who are not members of a trade union, or of a particular trade union, or of one of a number of particular trade unions, either generally or in any premises, place or undertaking or in any description of work; or
- (b) to dismiss any worker, or to take any action against him short of dismissal, or to treat him less favourably than other workers, on the ground that he is not a member of a trade union, or of a particular trade union, or of one of a number of particular trade unions.

17 Secondary action

- (1) Nothing in section 11 prevents an act from being actionable in tort on a ground specified in section 11(1)(a) or (b) where one of the facts relied on for the purpose of establishing liability is that there has been secondary action, other than action falling within subsection (2).

- (2) Secondary action falls within this subsection only if it is done in the course of such attendance as is declared lawful by section 18 —
- (a) by a worker employed (or, in the case of a worker not in employment, last employed) by the employer party to the dispute; or
 - (b) by a trade union official whose attendance is lawful by virtue of section 18(1)(b).
- (3) Subject to subsection (4), for the purposes of this section 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,
- and the employer under the contract of employment is not a party to the dispute.
- (4) An act in contemplation or furtherance of a trade dispute which is primary action in relation to that dispute is not secondary action in relation to another dispute.
- (5) For the purposes of this section —
- (a) “contract of employment” includes any contract under which one person personally does work or performs services for another, and related expressions have a corresponding meaning;
 - (b) “primary action” is such action as is mentioned in subsection (3)(a) or (b) where the employer under the contract of employment is the employer party to the dispute;
 - (c) an employer shall not be treated as party to a dispute between another employer and workers of that employer; and
 - (d) where more than one employer is in dispute with his workers, the dispute between each employer and his workers shall be treated as a separate dispute.

18 Picketing

- (1) Subject to subsection (2), it is 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.

- (2) Subsection (1) does not apply where more than 6 persons attend for that purpose —
 - (a) at a place of work (other than a place mentioned in paragraph (b)); or
 - (b) in the case of a place of work which has more than one entrance from a highway or other place to which the public have access, at any such entrance.
- (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 subsection (1) is impracticable,his place of work for the purpose of that subsection is 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,subsection (1) has effect, in relation to that dispute, 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 being elected or appointed to be a representative of some of the members of the union shall be regarded for the purposes of subsection (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.
- (6) Nothing in section 11 prevents an act done in the course of picketing from being actionable, unless the act is done in the course of attendance declared lawful by subsection (1).
- (7) [Inserts section 3A in the *Trade Disputes (Regulation) Act 1936*.]

19 Protest action

- (1) Nothing in section 11 prevents an act from being actionable in tort in any case where the reason, or one of the reasons for doing it is the fact or belief that an employer has dismissed one or more employees in circumstances whereby neither section 124 (dismissal in connection with protected industrial action) nor 130 (selective dismissal or re-engagement arising out of industrial action) of the *Employment Act 2006* apply and

those employees have no right to complain to the Employment Tribunal of unfair dismissal.⁴³

(2) In this section —

“dismiss” has the same meaning as in Part X of the *Employment Act 2006*;⁴⁴

20 Liability of trade union for industrial action

(1) Where proceedings in tort are brought against a trade union —

- (a) on a ground specified in section 11(1)(a) or (b); or
- (b) in respect of an agreement or combination by 2 or more persons to do or to procure the doing of any act which, if done without any such agreement or combination, would be actionable in tort on such a ground,

then, for the purpose of determining in those proceedings whether the union is liable in respect of the act in question, the act shall be taken to have been done by the union if, and only if, it is to be taken, in accordance with the following provisions, to have been authorised or endorsed by the union.

(2) An act shall be taken to have been authorised or endorsed by a trade union if it was done, or was authorised or endorsed —

- (a) by any person empowered by the rules to do, authorise or endorse acts of the kind in question, or
- (b) by a principal committee or official of the union, or
- (c) by any other committee of the union or any other official of the union (whether employed by it or not), or
- (d) without prejudice to paragraph (b) or (c), the registered official of the union.

(3) For the purpose of subsection (2)(c) —

- (a) any group of persons constituted in accordance with the rules is a committee of the union; and
- (b) an act shall be taken to have been done, authorised or endorsed by an official if it was done, authorised or endorsed by, or by any member of, any group of persons of which he was a member, the purposes of which include organising or endorsing industrial action.

(4) Subsection (2)(b), (c) and (d) applies notwithstanding anything in the rules of the union, or in any contract or rule of law, but subject as follows.

(5) An act shall not be taken to have been authorised or endorsed by the union by virtue only of subsection (2)(c) or (d) if it was repudiated by the

appropriate person as soon as reasonably practicable after coming to his knowledge (or to the knowledge of any of them, if more than one).

- (6) In subsection (5), “the appropriate person” means —
- (a) where the authorisation or endorsement was given by a person who is, or by a group of persons all of whom are, resident in the Island, either the registered official of the trade union or a principal committee or official of the union;
 - (b) in any other case, both the registered official of the union and a principal committee or official of the union.
- (7) Subsections (5) and (6) apply notwithstanding anything in the rules of the union, or in any contract or rule of law.
- (8) Where an act is repudiated —
- (a) written notice of the repudiation must be given to the committee or official in question, without delay, and
 - (b) the union must do its best to give individual written notice of the fact and date of repudiation, without delay —
 - (i) to every member of the union who the union has reason to believe is taking part, or might otherwise take part, in industrial action as a result of the act, and
 - (ii) to the employer of every such member.
- (9) The notice given to members under subsection (8)(b)(i) must include the following statement —
- “Your union has repudiated any call for industrial action to which this notice relates and will give no support for such action.”
- (10) A repudiation shall be treated as ineffective —
- (a) if, at any time after the purported repudiation, a principal committee or official or the registered official has behaved in a manner which is inconsistent with the purported repudiation, or
 - (b) if subsection (8) or (9) is not complied with.
- (11) A principal committee or official or a registered official shall be treated as behaving as mentioned in subsection (10)(a) if, on a request made to any of them within 6 months of the purported repudiation by a person who —
- (a) is a party to a commercial contract whose performance has been or may be interfered with as a result of the act in question, and
 - (b) has not been given notice by the union of the repudiation,
- it is not forthwith confirmed in writing that the act has been repudiated.
- (12) In this section —
- “commercial contract” means any contract other than —

- (a) a contract of service or apprenticeship, or
- (b) any other contract under which a person agrees personally to do work or perform services for another;

“general secretary” or “president” means the official of the union concerned who holds the office of general secretary or president, as the case may be, or where there is no such office, who holds the office which is equivalent, or the nearest equivalent, to that of general secretary or president;

“principal committee or official” means the principal executive committee or the president or general secretary of the union;

“principal executive committee” means the principal committee of the union exercising executive functions, by whatever name it is known;

“registered official” means the official of the union whose name is entered in the register pursuant to section 2(2)(b);

“rules” means the written rules of the union and any other written provisions forming part of the contract between a member and the other members (or, in the case of a union which is a body corporate, between a member and the body).

(13) Where an act is by virtue of this section taken as being done by a trade union, nothing in this section affects the liability of any other person in any proceedings in respect of the act.

(14) In proceedings arising out of an act which is by virtue of this section taken to have been done by a trade union, the power of the court to grant an injunction includes power to require the union to take such steps as the court considers appropriate for ensuring —

- (a) that there is no, or no further, inducement of persons to take part or to continue to take part in industrial action, and
- (b) that no person engages in any conduct after the granting of the injunction by virtue of having been induced before it was granted to take part or to continue to take part in industrial action;

and this section applies in relation to proceedings for failure to comply with any such injunction as they apply in relation to the original proceedings.

(15) In any such proceedings as are mentioned in subsection (14) the court, in determining whether or not to grant an injunction against a trade union, shall not have regard to any difficulty in enforcing the injunction by reason of the union being established outside the jurisdiction of the court, or any official or assets of the union being outside that jurisdiction.

21 Limit on damages

[P1982/46/16]

- (1) Subject to subsection (2), in any proceedings in tort brought against a registered trade union the amount which may be awarded against the union by way of damages in those proceedings shall not exceed £10,000.
- (2) Subsection (1) does not apply to any proceedings —
 - (a) for any of the following resulting in personal injury to any person, namely negligence, nuisance or breach of duty;
 - (b) without prejudice to paragraph (a), for breach of duty in connection with the ownership, occupation, possession, control or use of property (whether real or personal).
- (3) The Department for Enterprise may by order vary the sum specified in subsection (1), but no such order shall have effect unless it is approved by Tynwald.⁴⁵
- (4) In this section —

“duty” means a duty imposed by any rule of law or by or under any statutory provision; and

“personal injury” includes any disease and any impairment of a person’s physical or mental condition.

Miscellaneous and supplemental

22 Service of documents

Without prejudice to Part 4, Division 5 of the *Interpretation Act 2015* (service of documents), where any document (including any summons or other process relating to proceedings in any court or tribunal) which is required to be sent to or served on —

- (a) a trade union or employers’ association, or
- (b) the official of a trade union or employers’ association whose name is entered in the register pursuant to section 2(2)(b),

is sent by post to or delivered at the address of the union or association or official entered in the register under section 2(2)(c) or (b), as the case may be, the document shall be treated as validly sent to or served on the union, association or official.⁴⁶

23 Meaning of “trade union” and “employers’ association”

[P1974/52/28]

- (1) In this Act “**trade union**” means an organisation (whether permanent or temporary) which either —

- (a) consists wholly or mainly of workers of one or more descriptions and is an organisation whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers' associations; or
 - (b) consists wholly or mainly of —
 - (i) constituent or affiliated organisations which fall within paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations falling within paragraph (a)); or
 - (ii) representatives of such constituent or affiliated organisations;and in either case is an organisation whose principal purposes include the regulation of relations between workers and employers or between workers and employers' associations, or include the regulation of relations between its constituent or affiliated organisations.
- (2) In this Act “**United Kingdom union**” means a trade union which is, or which is a branch or section of, —
- (a) a trade union whose name is entered in the list of trade unions maintained under section 8 of the Trade Union and Labour Relations Act 1974 (an Act of Parliament), or
 - (b) a special register body within the meaning of that Act.
- (3) In this Act “**employers' association**” means an organisation (whether permanent or temporary) which either —
- (a) consists wholly or mainly of employers or individual proprietors of one or more descriptions and is an organisation whose principal purposes include the regulation of relations between workers of that description or those descriptions and workers or trade unions; or
 - (b) consists wholly or mainly of —
 - (i) constituent or affiliated organisations which fall within paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations falling within paragraph (a)); or
 - (ii) representatives of such constituent or affiliated organisations;and in either case is an organisation whose principal purposes include the regulation of relations between employers and workers or between employers and trade unions, or include the regulation of relations between its constituent or affiliated organisations.

24 Meaning of “trade dispute”

[P1974/52/29]

- (1) In this Act “**trade dispute**” means a dispute between workers and their employer which relates wholly or mainly to one or more of the following —
- (a) terms and conditions of employment, or the physical conditions in which any workers are required to work;
 - (b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers;
 - (c) allocation of work or the duties of employment as between workers or groups of workers;
 - (d) matters of discipline;
 - (e) the membership or non-membership of a registered trade union on the part of a worker;
 - (f) facilities for officials of registered trade unions;
 - (g) machinery for negotiation and consultation, and other procedures, relating to any of the above matters, including the recognition by employers or employers’ associations of the right of a registered trade union to represent workers in any such negotiation or consultation or in the carrying out of such procedures.
- (1A) A dispute between a Department or Statutory Board or any other officer or body performing functions on behalf of the Crown and any workers shall notwithstanding that it is not the employer of those workers, be treated as a dispute between an employer and those workers.⁴⁷
- (1B) An act, threat or demand done or made by one person or organisation against another which, if resisted, would have led to a trade dispute with that other, shall be treated as being done or made in contemplation of a trade dispute with that other, notwithstanding that because that other submits to the act or threat or accedes to the demand no dispute arises.⁴⁸
- (2) A dispute is a trade dispute for the purposes of this Act even though it relates to matters occurring outside the Island, so long as the person or persons, whose actions in the Island are said to be in contemplation or furtherance of the dispute, are likely to be affected in respect of one or more of the matters specified in subsection (1) by the outcome of the dispute.
- (2A) In this section —
- “employment” includes any relationship whereby one person personally does work or performs services for another; and
- “worker”, in relation to a dispute with an employer, means —

- (a) a worker employed by that employer; or
- (b) a person who has ceased to be so employed if his employment was terminated in connection with the dispute or if the termination of his employment was one of the circumstances giving rise to the dispute.⁴⁹

25 Interpretation: general

[P1974/52/30]

In this Act —

“**act**” and “**action**” each includes omission, and reference to doing an act or taking action shall be construed accordingly;

“**contract of employment**” means a contract of service or apprenticeship, whether express or implied and (if express) whether oral or in writing;

“**date of ballot**” means, in the case of a ballot in which votes may be cast on more than one day, the last of those days;⁵⁰

“**employee**” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment;

“**employer**” means —

- (a) in relation to an employee, means the person by whom the employee is (or, where the employment has ceased, was) employed;
- (b) otherwise, means a person regarded in his capacity as someone for whom one or more workers work or have worked, or normally work or seek to work;

“**employers’ association**” has the meaning given by section 23(3);

“**individual proprietor**” means an individual who is the owner of an undertaking;

“**officer**”, in relation to a trade union or an employers’ association, includes any member of the governing body of the union or association and any trustee of any fund applicable for the purposes of that union or association;

“**official**”, in relation to a trade union or an employers’ association, means any person who is an officer of the union or association or of a branch or section of the union or association, or (in the case of a trade union), not being such an officer, is a person elected or appointed in accordance with the rules of the union to be a representative of its members or of some of them, including any person so elected or appointed who is an employee of the same employer as the members, or one or more of the members, whom he is to represent;

“**police service**” means service as a member of the Isle of Man Constabulary or in any other capacity by virtue of which a person has the powers or privileges of a constable;

“**the register**” means the register of trade unions or the register of employers’ associations, as the case may be, maintained under section 2(1);

“**registered**”, in relation to a trade union or employers’ association, means entered in the register;

“**strike**” means any concerted stoppage of work;⁵¹

“**trade dispute**” has the meaning given by section 24;

“**trade union**” and “**United Kingdom union**” have the meanings given by section 23 (1) and (2);

“**worker**” means an individual regarded in his capacity as a person who works or normally works or seeks to work (otherwise than in police service) —

- (a) under a contract of employment;
- (b) under any other contract, whether express or implied and (if express) whether oral or in writing, whereby he undertakes to do or perform personally any work or services for another party to the contract who is not a professional client of his; or
- (c) in employment under or for the purposes of the Crown, a Department or Statutory Board or a government department of the United Kingdom (otherwise than as a member of the naval, military or air forces of the Crown), in so far as such employment does not fall within (a) or (b) above.

26 Transitional provisions

The transitional provisions in Schedule 2 shall have effect.

27 Short title and commencement

[P1984/49/11]

- (1) This Act may be cited as the Trade Unions Act 1991.
- (2) This Act shall come into operation on such day as the Department of Industry may by order appoint.⁵²

SCHEDULE 1

REQUIREMENTS AS TO BALLOTS

Section 13(3)

Entitlement to vote

1. (1) Subject to section 13(7), entitlement to vote in the ballot must be accorded —
 - (a) equally, to all those members of the trade union who it is reasonable at the time of the ballot for the union to believe will be called upon in the strike or other industrial action in question to act in breach of, or to interfere with the performance of, their contracts of employment or, as the case may be, to continue so to act; and
 - (b) to no others.
- (2) Where a person who was a member of a trade union at the time when a ballot was held for the purpose of section 13 —
 - (a) was denied entitlement to vote in the ballot; and
 - (b) is induced by the union, in the course of the action in respect of which the ballot was held, to break his contract of employment or to interfere with its performance,this Schedule shall subject to sub-paragraph (5) of paragraph 3 be taken not to have been satisfied in relation to that ballot.⁵³

Method of voting

2. (1) The method of voting must be by the marking of a voting paper by the person voting.
 - (2) The voting paper must contain at least one of the following questions —
 - (a) a question (however framed) which requires the voter to say, by answering “Yes” or “No”, whether he is prepared to take part or to continue to take part, as the case may be, in a strike involving him in a breach of his contract of employment;
 - (b) a question (however framed) which requires the voter to say, by answering “Yes” or “No”, whether he is prepared to take part or to continue to take part, as the case may be, in industrial action falling short of a strike but involving him in a breach of his contract of employment.
- (2A) For the purposes of sub-paragraph (2) an overtime ban and a call-out ban constitute industrial action short of a strike.⁵⁴

(3) and (4) [Repealed]⁵⁵

(5) A person shall not be treated as being given a convenient opportunity to vote by post unless a voting paper is made available to him as mentioned in sub-paragraph (2)(a) of paragraph 3 at least 7 days before the close of the ballot.⁵⁶

(6) [Repealed]⁵⁷

Conduct of ballot

3. (1) The ballot shall be conducted so as to secure that every person who is entitled to vote in the ballot must —

(a) be allowed to vote without interference from, or constraint imposed by, the union or any of its members, officials or employees, and

(b) so far as is reasonably practicable, be enabled to do so without incurring any direct cost to himself.

(2) So far as is reasonably practicable, every person who is entitled to vote in the ballot must —

(a) have a voting paper sent to him by post at his home address or any other address which he has requested the trade union in writing to treat as his postal address; and

(b) be given a convenient opportunity to vote by post.

(3) A ballot shall be conducted so as to secure that —

(a) so far as is reasonably practicable, those voting do so in secret, and

(b) the votes given in the ballot are fairly and accurately counted.

(4) For the purposes of sub-paragraph (3)(b) an inaccuracy in counting shall be disregarded if it is accidental and on a scale which could not affect the result of the ballot.

(5) If —

(a) in relation to a ballot there is a failure (or there are failures) to comply with a provision mentioned in sub-paragraph (1) or (2) or with more than one of those provisions, and

(b) the failure is accidental and on a scale which is unlikely to affect the result of the ballot, or, as the case may be, the failures are accidental and taken together are on a scale which is unlikely to affect the result of the ballot,

the failure (or failures) shall be disregarded.⁵⁸

Result of ballot

4. [Repealed]⁵⁹

SCHEDULE 2

TRANSITIONAL PROVISIONS

Section 26

Registration

1. Except in relation to a trade union or employers' association which is formed after the commencement of this Act, nothing in section 1 or section 12 applies in relation to an act done within the period of 3 months beginning with such commencement.

Accounts and returns

2. A trade union is not required to send to the Registrar General under section 6(2) a return in respect of any calendar year which began before the commencement of this Act.⁶⁰

Status of trade unions and employers' associations

3. Section 8(1)(c), (d) and (e) does not apply in relation to a cause of action accruing, offence committed or judgment, order or award made before the commencement of this Act.

Breach of contract by industrial action

4. Nothing in section 10(1) applies in relation to a breach of contract committed before the commencement of this Act.

Immunity for acts in contemplation etc of trade dispute

5. (1) Nothing in section 11 applies in relation to an act done before the commencement of this Act.

(2) Without prejudice to sub-paragraph (1), section 13 does not apply in relation to a strike or other industrial action which began before, or begins within a period of 42 days after, the commencement of this Act.

Essential services

6. Section 14 does not apply in relation to a trade dispute which existed before the commencement of this Act.

Liability of trade unions

7. (1) Section 20 does not apply to proceedings begun before the commencement of this Act.

(2) Section 21 does not apply to proceedings founded on a cause of action which arose before the commencement of this Act.



ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Subs (2) repealed by Trade Unions (Amendment) Act 1995 s 1.

² Subs (3) added by Trade Unions (Amendment) Act 1995 s 2 and amended by SD155/10 Sch 2 and by SD2017/0325.

³ Subs (4) added by Trade Unions (Amendment) Act 1995 s 2.

⁴ Subs (1) amended by Central Registry Act 2018 Sch.

⁵ Subs (3) amended by Central Registry Act 2018 Sch.

⁶ Subs (6) amended by Central Registry Act 2018 Sch.

⁷ Subs (7) amended by Central Registry Act 2018 Sch.

⁸ Subs (8) amended by Central Registry Act 2018 Sch.

⁹ Subs (1) amended by Central Registry Act 2018 Sch.

¹⁰ Subs (2) amended by Central Registry Act 2018 Sch.

¹¹ Subs (4) amended by Central Registry Act 2018 Sch.

¹² S 2A inserted by Trade Unions (Amendment) Act 1995 s 3.

¹³ Subs (1) amended by Central Registry Act 2018 Sch.

¹⁴ Subs (3) repealed by Trade Unions (Amendment) Act 1995 s 1.

¹⁵ Subpara (iii) repealed by Employment Act 2006 Sch 9.

¹⁶ Subpara (v) amended by Central Registry Act 2018 Sch.

¹⁷ Subs (1) amended by Central Registry Act 2018 Sch.

¹⁸ Subs (2) amended by Central Registry Act 2018 Sch.

¹⁹ Subs (1) amended by Trade Unions (Amendment) Act 1995 s 3 and by Central Registry Act 2018 Sch..

²⁰ Subs (2A) inserted by Trade Unions (Amendment) Act 1995 s 4 and amended by Central Registry Act 2018 Sch..

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- ²¹ Subs (3) amended by Central Registry Act 2018 Sch.
- ²² Subs (2) amended by Central Registry Act 2018 Sch.
- ²³ Subs (6) added by Trade Unions (Amendment) Act 1995 s 2.
- ²⁴ Para (b) amended by Central Registry Act 2018 Sch.
- ²⁵ Subs (1) amended by SD155/10 Sch 2 and by SD2017/0325.
- ²⁶ Para (a) amended by Employment Act 2006 Sch 8.
- ²⁷ Para (ba) inserted by Employment Act 2006 Sch 8.
- ²⁸ Para (bb) inserted by Employment Act 2006 Sch 8.
- ²⁹ Subpara (i) amended by Employment Act 2006 Sch 8.
- ³⁰ Subpara (ii) amended by Employment Act 2006 Sch 8.
- ³¹ Subs (3A) inserted by Employment Act 2006 Sch 8.
- ³² Subs (3B) inserted by Employment Act 2006 Sch 8.
- ³³ Subs (3C) inserted by Employment Act 2006 Sch 8.
- ³⁴ Subs (3D) inserted by Employment Act 2006 Sch 8.
- ³⁵ Subs (5) amended by Employment Act 2006 Sch 8.
- ³⁶ Para (b) substituted by Trade Unions (Amendment) Act 1995 s 5.
- ³⁷ Subs (1) amended by SD861/11.
- ³⁸ Para (i) substituted by Employment Act 2006 Sch 8.
- ³⁹ Subs (4) amended by SD861/11.
- ⁴⁰ Subs (5) amended by SD861/11.
- ⁴¹ Subs (6) amended by SD861/11.
- ⁴² Subs (8) amended by SD861/11.
- ⁴³ Subs (1) substituted by Employment Act 2006 Sch 8.
- ⁴⁴ Subs (2) amended by Employment Act 2006 Sch 8 and Sch 9.
- ⁴⁵ Subs (3) amended by SD155/10 Sch 2 and by SD2017/0325.
- ⁴⁶ S 22 amended by Interpretation Act 2015 s 106.
- ⁴⁷ Subs (1A) inserted by Employment Act 2006 Sch 8.
- ⁴⁸ Subs (1B) inserted by Employment Act 2006 Sch 8.
- ⁴⁹ Subs (2A) inserted by Employment Act 2006 Sch 8.
- ⁵⁰ Definition of “date of ballot” inserted by Employment Act 2006 Sch 8.
- ⁵¹ Definition of “strike” inserted by Employment Act 2006 Sch 8.
- ⁵² ADO (whole Act) 1/4/1992 (GC86/92).
- ⁵³ Subpara (2) amended by Employment Act 2006 Sch 8.
- ⁵⁴ Subpara (2A) inserted by Employment Act 2006 Sch 8.
- ⁵⁵ Subparas (3) and (4) repealed by Employment Act 2006 Sch 9.
- ⁵⁶ Subpara (5) amended by Employment Act 2006 Sch 8.
- ⁵⁷ Subpara (6) repealed by Employment Act 2006 Sch 9.
- ⁵⁸ Para 3 substituted by Employment Act 2006 Sch 8.
- ⁵⁹ Para 4 repealed by Employment Act 2006 Sch 9.
- ⁶⁰ Para 2 amended by Central Registry Act 2018 Sch.

