

**National Association of Colliery Overmen, Deputies and Shotfirers
removal from the list of trade unions**

Date of decision/removal

9 September 2016

DECISION

Pursuant to section 4 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act"), I remove the name of the National Association of Colliery Overmen, Deputies and Shotfirers from the list of trade unions on the grounds that it is no longer a trade union within the meaning of the 1992 Act.

REASONS

1. The General Secretary of the National Association of Colliery Overmen, Deputies and Shotfirers ("NACODS" or "the 'Union'"), Mr Rowland Soar, wrote to my office by letter dated 22 June 2016. In this letter Mr Soar stated "*the mining industry took fatal blows at the end of 2015 which took away all of NACODS working members, following this the employer, UK Coal, went into liquidation, therefore under the Trade Union and Labour Relations (Consolidation) Act 1992, Part 1, Chapter 1 (1), we can no longer fulfil our obligations as a trade union and ask that NACODS be delisted from December 2015 in compliance with [the 1992 Act] Part 1, Chapter 1 (4)*". He further stated that NACODS had become "*an unincorporated association*".
2. Section 1 of the 1992 Act defines a trade union as follows,
"1. *Meaning of "trade union"*
In this Act a "trade union" means an organisation (whether permanent or temporary) –
(a) which consists wholly or mainly of workers of one or more descriptions and whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers' associations".
3. Section 4 of the 1992 Act provides as follows –
"4. *Removal of name from the list*
(1) If it appears to the Certification Officer, on application made to him or otherwise, that an organisation whose name is entered in the list of trade unions is not a trade union, he may remove its name from the list.

(2) He shall not do so without giving the organisation notice of his intention and considering any representations made to him by the organisation within such period (of not less than 28 days beginning with the date of the notice) as may be specified in the notice

(3) The Certification Officer shall remove the name of an organisation from the list of trade unions if -

- (a) he is requested by the organisation to do so, or*
- (b) he is satisfied that the organisation has ceased to exist.”.*

4. My office replied to Mr Soar by letter of 30 June. It was explained to Mr Soar that under section 4(3)(a) of the 1992 Act the Certification Officer had a duty to act on a request from a union to remove its name from the list but that this did not of itself mean that the Certification Officer had made any determination of its status as a trade union or that its position in respect of the 1992 Act would be changed.
5. However, in light of Mr Soar's letter, it was considered that it was appropriate for the Certification Officer to review the status of NACODS, having regard also to the provisions of section 4(1) of the 1992 Act. Accordingly, by the above letter of 30 June, Mr Soar was asked to provide further particulars of the basis for his view that NACODS was no longer capable of functioning as a trade union. He was asked to provide information on the number of members in the Union in each of the membership categories provided for within its rules. He was also asked to provide information or comment on the employers operating within the industries relevant to NACODS.
6. The rules of NACODS relevant to my consideration of this matter include the following:

“4. Objects

The Objects of the Association are:-

4.1 To advance and protect the interests of members in relation to questions of wages, hours, holidays, conditions of employment, statutory leave, sickness benefit, pensions, safety, compensation, and all other questions arising out of and/or in connection with the members' employment or occupation and generally improve the conditions and environment in which members are employed.

4.2 To negotiate and settle disputes arising between members and employers on questions specified in Rule 4.1 above in the best interests of the members.

4.3 To raise funds by contributions, levies and donations or other means in order to carry out the objects of the Association.

4.4 To provide for members death benefit, legal assistance and any other benefits including provision of convalescence benefit as may be determined in accordance with the Rules of the Association.

4.5 To consider all questions affecting the interests of the Association.

4.5.1 To originate and promote improvements in the law and its administration.

4.5.2 To provide legal advice and assistance for members at the discretion of the Executive Committee.

4.5.3 To assist members who have suffered injury in the course of their employment.

4.5.4 To assist members who contracted a recognised industrial disease in the course of their employment.

4.5.5 To assist dependents of members who have died as a result of such injury or disease to recover such compensation, benefit or damages as they may be entitled to at common law or under any statute and to take such steps and proceeds as may be deemed necessary.

4.6 To provide for the improvement of the education of members and their families as may be determined in accordance with the Rules of the Association.

4.7 To raise levies on behalf of and to make grants for any charitable or other purpose in conformity with the rules and principles of the Association.

4.8 To assist the convalescence of working members when required and to assist when possible retired members who have not continued to be members of the Leicester & County Convalescent Scheme or any other convalescent scheme following their retirement at the discretion of the Executive Committee.

4.9 To co-operate with and assist Associations that have the same or similar objects.

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6. Membership

6.1 Admission of Members

6.1.1. Any colliery official or any person of supervisory grade or any of the Special Grades may apply for membership of the Association but the Council or Executive Committee shall have the right to reject any such application without issuing any reason.

6.1.2. Persons accepted for membership shall include Honorary Members as classified by Rule 6.2 and non-contributory Members as classified by Rule 6.3.1.5(i),(ii) and (iii). Only those persons who are not classified as Honorary Members or non-contributory Members shall have full rights and benefits of the Association. Those persons shall be classified as members and are referred to as 'Members'.

6.2 Honorary Members

6.2.1. (i) Any Member of the Association who has left employment in the coal industry will become an Honorary Member of the Association, provided he is not a member of any other trade union.

6.2.1. (ii) Any Member who has left employment within the coal industry may continue to pay full subscriptions to be entitled to all of the benefits of the Association.

6.2.2 An Honorary Member is not required to pay to the Association any subscriptions or levy.

6.2.3 He shall have no voting powers .

6.2.4 He shall not be eligible for nomination to any office in the Association.

6.2.5 He shall have all the benefits of ordinary membership of the Association as set out in Rules 4.4, 4.5 and 4.8

6.3 ...

6.3.1.5 Any Member of the Association who is not an Honorary Member, who is:

6.3.1.5 (i) unable to work by reason of duly certified disability resulting from illness or accident suffered by him; and

6.3.1.5 (ii) is not in receipt of monies from his employers shall at the discretion of the Executive Committee become a "non-contributory member" of the Association and shall remain as such during his certified absence from employment. He is entitled to all normal benefits of ordinary membership of the Association.

6.3.1.5 (iii) Any person who is entitled and wishes to be a "non-contributory member" shall deliver a medical certificate setting out his incapacity to his Branch Secretary immediately on receipt. Until such certificate is delivered he is responsible for subscriptions to the Association.

7. Mr Soar replied to the above letter of 30 June by letter dated 5 July. Mr Soar informed my office that "*Following the rapid closures of Hatfield, Kellingly and Thoresby collieries we were left with no working members and we changed their status to honorary members who do not pay contributions*". He stated that the current membership figures were "*Members: nil; Honorary Members: 773; Non-Contributing Members: nil*".
8. He further noted that the former 'Members' of NACODS were employed in roles which were very specific to coal mining. He noted that in the absence of any coal mining industry such jobs did not exist nor, in his view, were likely to exist in the future. He noted "*we see no possibility that NACODS will have the opportunity to regulate relations between workers and employers*".
9. I caused a letter to be sent to the Association on 19 July 2016 informing Mr Soar that I was considering using my powers under section 4(1) of the 1992 Act to remove the name of NACODS from the list of trade unions. I informed Mr Soar that it appeared to me that NACODS no longer consists wholly or mainly of workers of the description required by its rules. Further, that NACODS no longer has a principal purpose to regulate relations between workers of that description and their employers. I noted that in these circumstances NACODS was no longer within the statutory definition of a trade union. I invited the Association to comment on the situation as it appeared to me by 18 August.
10. The Association replied by a letter dated 2 August 2016, signed by Mr Soar, in which he stated "*NACODS agrees unequivocally with your conclusion that the Association no longer consists mainly of workers of the description required by its rules, and that NACODS no longer has a principal purpose of regulating relations between such workers and their employers and therefore no longer falls within the statutory definition of a trade union*".
11. For a body to meet the statutory definition of a trade union it must consist of workers of one or more descriptions and its principal purposes must include the regulation of relations between workers of the relevant description and employers. The relevant definition of a worker is contained in section 296 of the 1992 Act.
12. I observe that in order to meet the definition of a trade union an organisation must "*consist wholly or mainly of workers of one or more descriptions*". The

relevant description of NACODS's members is to be found in rule 6 of NACODS's rules. Rule 6.1 provides that, "*Any colliery official or any person of supervisory grade or any of the Special Grades may apply for membership of the Association but the Council or Executive Committee shall have the right to reject any such application without issuing any reason*". I am informed by the General Secretary of NACODS, and I accept, that NACODS has no members employed in a colliery, and specifically it has no members working in the position or role of '*colliery official*' or '*supervisory grade or any of the special grades*' associated with the coal mining industry.

13. I further observe that rule 6.2 provides for another category of member as follows, "*Any member of the Association who has left employment in the coal industry will become an Honorary Member of the Association, provided he is not a member of any other trade union*". Under rule 6.2 Honorary Members do not pay any subscription to the union and are excluded from certain benefits of the union including those provided for in rules 4.1 and 4.2, which include the union's assistance in advancing and protecting the interests of members in relation to terms and conditions of their employment and the relationship with their employer and negotiating and setting disputes between members and employers.
14. On the facts of this case I find that this organisation does not consist of workers of the description provided in its rules. I also find that the rules of NACODS make it clear that it will not regulate relations between such members as the organisation does now consist of (the "Honorary Members"), and their employers. I therefore also find that the principal purposes of NACODS do not include the regulation of relations between its members and their employers.
15. For the above reasons I conclude that the National Association of Colliery Officials, Deputies and Shotfirers is not a trade union within the meaning of the 1992 Act. Accordingly, pursuant to section 4 of the 1992 Act, I remove its name from the list of trade unions.



Gerard Walker
The Certification Officer

