

Lists of Trade Unions and Employers' Associations

Any trade union or employers' association may apply to have its name included in the public lists maintained by the Certification Officer. This chapter sets out the background to that process. It also gives the numbers on the lists at 31 March 2018 and the changes that have occurred during the previous twelve months. The lists are set out in full in Appendix 1 (trade unions) and Appendix 2 (employers' associations).

Entry in the lists and its significance

- 1.1 The Certification Officer maintains a list of trade unions and a list of employers' associations in accordance with the provisions of sections 2-4 and sections 123-125 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act").
- 1.2 Listing is voluntary and any organisation of workers or of employers may apply to be listed. A fee is payable on application (see Appendix 10). The name of the organisation shall be entered in the relevant list if the Certification Officer is satisfied that it falls within the appropriate definition in the 1992 Act (see paragraphs 1.19 and 1.20). The Act does not impose any test of size or effectiveness but entry in the list is not automatic. The Certification Officer will test whether the organisation satisfies the statutory definition. There are simplified provisions for the listing of a trade union or unincorporated employer's association formed by the amalgamation of two or more trade unions or unincorporated employers' association which were already on the list (see paragraph 1.6).
- 1.3 Any organisation aggrieved by the refusal of the Certification Officer to enter its name in the relevant list may appeal on a point of law to the Employment Appeal Tribunal (EAT).
- 1.4 For trade unions, listing is an essential preliminary to any application for a certificate of independence under section 6 of the 1992 Act. There are a number of other advantages of being listed for trade unions and unincorporated employers' associations. It is one of the requirements for obtaining tax relief in respect of expenditure on provident benefits (section 981 of the Corporation Tax Act 2010). There are certain procedural advantages in connection with the devolution of property following a change of trustees (section 13 of the 1992 Act). The fact of being on the relevant list is evidence (in Scotland, sufficient evidence) that the organisation is a trade union or employers' association. The name of a trade union or employers' association is protected by the provision that an organisation shall not be entered in the relevant list if its name so nearly resembles the name of an organisation already on that list as to be likely to deceive the public.

- 1.5 The current lists are available for inspection free of charge at the Certification Office, Lower Ground, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX. The lists for organisations having their head office in Scotland are also available for inspection at the office of the Assistant Certification Officer for Scotland, Melrose House, 69a George Street, Edinburgh EH2 2JG. They also appear on the website of the Certification Officer, www.gov.uk/certificationofficer.

Unions and employers' associations formed by amalgamation

- 1.6 Upon the amalgamation of two or more unions or unincorporated employers' associations listed in accordance with Chapter VII Part I of the 1992 Act, the amalgamated union or unincorporated employers' association shall automatically be listed by the Certification Officer when the instrument of amalgamation takes effect. The newly amalgamated union or unincorporated employers' association shall, however, be removed from the list if it does not send certain prescribed information to the Certification Officer within six weeks of the date the instrument of amalgamation takes effect or such longer period as the Certification Officer may specify. The information to be sent to the Certification Officer is a copy of the rules of the new union or unincorporated employers' association, a list of its officers and the address of its head or main office, together with the prescribed fee (see Appendix 10).

Trade unions and employers' associations not on the lists (scheduled bodies)

- 1.7 As entry on the lists is voluntary, it is difficult to know precisely how many trade unions and employers' associations exist but have not applied to be listed. At the end of this reporting period, the Certification Officer was aware of 12 trade unions and 38 employers' associations which met the statutory definitions but which had not sought to be listed. These are on the schedules to the relevant lists. There may be other organisations which meet the statutory definitions of a trade union or employers' association. The fact that an organisation is not on the relevant list does not exempt it from its statutory responsibilities, including the requirement to make an annual return. The returns from the scheduled bodies are available for inspection in the same way as are those of listed organisations. Those trade unions and employers' associations known to the Certification Office but which have not applied to be included in the relevant lists are set out in the schedules to Appendices 1 and 2 respectively.

Removal from the lists and schedules

- 1.8 If at any time it appears to the Certification Officer that an organisation whose name is entered on the relevant list is not a trade union or an employers' association its name may be removed from the list. The organisation concerned will be given an opportunity to make representations as to why its name should not be removed. There is a right of appeal to the EAT on a point of law against the removal of a name from a list. The Certification Officer must also remove the name of an organisation from the list if she is satisfied that it no longer exists or if the organisation requests that she should do so.

- 1.9 The table below gives the names of the seven trade unions and one employers' association removed from the lists and schedules during the period 1 April 2017 to 31 March 2018. An asterisk denotes those which ceased to exist as a result of a merger. The others were dissolved or deemed no longer to meet the statutory definition of a trade union or employers' association.

Trade Unions

England and Wales – Listed

Association of Teachers and Lecturers*

Association of Somerset Inseminators

Ellington Branch of the North East Area of the National Union
of Mineworkers

National Union of Teachers*

NUM Northumberland Area

Staff Union West Bromwich Building Society*

England and Wales – Scheduled

None

Scotland – Listed

None

Scotland – Scheduled

National Union of Mineworkers (Scottish Area)

Employers' Associations

England and Wales – Listed

None

England and Wales – Scheduled

Fencing Contractors Association

Scotland – Listed

None

Scotland – Scheduled

None

Additions to the lists and schedules

- 1.10 The table below gives the names of three trade unions added to the list or schedule during the period 1 April 2017 to 31 March 2018. An asterisk denotes one which was added as a result of a merger. One employers' association was added to the list or schedule during this period.

Trade Unions

England and Wales – Listed

Confederation of British Surgery
CU Staff Consultative Group
National Education Union*

England and Wales – Scheduled

None

Scotland – Listed

None

Scotland – Scheduled

None

Employers' Associations

England and Wales – Listed

Welsh Local Government Association

England and Wales – Scheduled

None

Scotland – Listed

None

Scotland – Scheduled

None

Decisions of the Certification Officer in relation to listing applications

- 1.11 In this reporting period the Certification Officer made a decision to refuse an application from an organisation named Foster Carers Workers Union (now known as the National Union of Professional Foster Carers) to be entered on the list of trade unions on the basis that it did not meet the statutory definition of a trade union (CO/L/1/17-18). This decision has been appealed to the EAT and is awaiting a hearing.

The lists and schedules at 31 March 2018

- 1.12 As required by sections 2 and 123 of the 1992 Act, this report includes the names of those trade union and employers' associations on the lists and schedules as at 31 March 2018. They are reproduced as Appendices 1 and 2. The lists comprised 134 trade unions and 53 employers' associations whilst the schedules comprised 12 trade unions and 38 employers' associations.

Changes during the year are summarised in the tables below:

Listed trade unions and employers' associations

	<i>On lists at 31 March 2017</i>	<i>Changes between 1 April 2017 and 31 March 2018</i>		<i>On lists at 31 March 2018</i>
		<i>Additions</i>	<i>Removals</i>	
Trade Unions	137	3	6	134
Employers' Associations	52	1	0	53

Scheduled trade unions and employers' associations

	<i>On schedules at 31 March 2017</i>	<i>Changes between 1 April 2017 and 31 March 2018</i>		<i>On schedules at 31 March 2018</i>
		<i>Additions</i>	<i>Removals</i>	
Trade Unions	13	0	1	12
Employers' Associations	39	0	1	38

1.13 As at 31 March 2018 the total number of listed and scheduled trade unions and employers' associations is, therefore, as follows:

Listed and scheduled trade unions and employers' associations

	<i>Listed</i>	<i>Scheduled</i>	<i>Total</i>
Trade Unions	134 (137)	12 (13)	146 (150)
Employers' Associations	53 (52)	38 (39)	91 (91)

The figures in brackets are the equivalent figures in the previous reporting year.

Special register bodies

- 1.14 Under the Industrial Relations Act 1971, a special register was established for the registration of organisations which were either companies or incorporated by charter or letters patent and which took part in collective bargaining on behalf of their members. These were mainly professional bodies.
- 1.15 Section 10(3) of the 1992 Act provides that trade unions cannot have corporate status. However, section 117 provides for an exception to preserve the position of those bodies which were already on the special register.
- 1.16 Special register bodies are also exempt from the requirement to conduct elections for the posts of president and general secretary where they are not voting members of the Executive. However, the voting members of the executive committee of special register bodies must be elected in accordance with the statutory provisions.
- 1.17 The following 13 special register bodies remain on the list of trade unions:

Association for Clinical Biochemistry & Laboratory Medicine
British Association of Occupational Therapists Limited
British Dental Association
British Dietetic Association
British Medical Association
Chartered Society of Physiotherapy
Educational Institute of Scotland
Headmasters and Headmistresses Conference
Royal College of Midwives
Royal College of Nursing of the United Kingdom
Society of Authors
Society of Chiropodists and Podiatrists
Society of Radiographers

Changes of name of listed trade unions and employers' associations

1.18 Sections 107 and 134 of the 1992 Act provide that a change of name of a listed trade union or employers' association must be approved by the Certification Officer before it can take effect. During the reporting period approval was given to the changes of name of two trade unions and one employers' association, the details of which are given in the table below:

		<i>Effective Date</i>
<i>Trade Unions</i>		
<i>From</i>	Leeds Building Society Staff Association	07/02/2018
<i>To</i>	Leeds Building Society Colleague Association	
<i>From</i>	National Association of Stable Staff	02/08/2017
<i>To</i>	National Association of Racing Staff	
<i>Employers' Associations</i>		
<i>From</i>	Graphics Enterprise Scotland	21/08/2017
<i>To</i>	Print Scotland	

Definition of a trade union

1.19 Section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 provides as follows:

"In this Act a "trade union" means an organisation (whether temporary or permanent) –

(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; or

(b) which consists wholly or mainly of –

(i) constituent or affiliated organisations which fulfil the conditions in paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or

(ii) representatives of such constituent or affiliated organisations,

and whose principal purposes include the regulation of relations between workers and employers or between workers and employers' associations, or the regulation of relations between its constituent or affiliated organisations."

Definition of an employers' association

1.20 Section 122 of the Trade Union and Labour Relations (Consolidation) Act 1992 provides as follows:

“(1) In this Act an “employers’ association” means an organisation (whether temporary or permanent) –

(a) which consists wholly or mainly of employers or individual owners of undertakings of one or more descriptions and whose principal purposes include the regulation of relations between employers of that description or those descriptions and workers or trade unions; or

(b) which consists wholly or mainly of –

(i) constituent or affiliated organisations which fulfil the conditions in paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or

(ii) representatives of such constituent or affiliated organisations,

and whose principal purposes include the regulation of relations between employers and workers or between employers and trade unions, or the regulation of relations between its constituent or affiliated organisations.

(2) References in this Act to employers’ associations include combinations of employers and employers’ associations.”