**Contents of the instrument of amalgamation**

The provisions of Schedule 1 to the Regulations prescribing the contents of an instrument of amalgamation are set out below in the bolder type. Some explanatory notes have been added.

* 1. **The instrument shall state that it is an instrument of amalgamation between the organisations named therein as the amalgamating organisations, and that upon the coming into operation of the instrument the members of the amalgamating organisations will become members of the amalgamated organisation and be subject to that organisation's rules.**

We suggest that this can be achieved by using the following paragraphs, which also cover the name requirement in paragraph 3(i) and the date requirement in paragraph 5 below.

1. This instrument of amalgamation made between ... and ... [names of unions] (hereinafter called "the amalgamating unions") shall, if duly approved by a resolution of the members of each of the amalgamating unions, take effect on ... or the date of registration of this instrument whichever is the later (hereinafter called "the effective date") [see paragraph 5 below].

2. The trade union which is to result from this amalgamation (hereinafter called "the amalgamated union") shall be known as....

3. On the effective date the members of each of the amalgamating unions will become members of the amalgamated union and be subject to that union's rules."

* 1. **The instrument shall either set out the proposed rules of the amalgamated organisation or state who are the persons authorised to draw up those rules**.
	2. **If the instrument does not set out the proposed rules, it shall contain a summary of what those rules will provide with respect to the following matters:**

**(i) the name and principal purposes of the amalgamated organisation;**

 **(ii) the conditions of admission to membership;**

 **(iii) the structure of the amalgamated organisation;**

 **(iv) the method of appointing and removing its governing body and principal officials and of altering its rules;**

 **(v) the contributions and benefits applicable to members of the amalgamating organisations.**

Regarding (v), if the contributions and benefits of members of any of the amalgamating unions are not to change from those operating before amalgamation that should be stated in the instrument. Otherwise, the rates of contributions and benefits payable in the new union should be set out in the instrument with any special conditions or qualifications also shown.

* 1. **The instrument shall specify any property held for the benefit of any of the amalgamating organisations or for the benefit of a branch of any of those organisations which is not to be vested in the appropriate trustees as defined** [**[in section 105 of the Act]**](http://www.legislation.gov.uk/ukpga/1992/52/section/105)**, and shall state the proposed disposition of any such property.**

This requirement follows from [section 105 of the Act](http://www.legislation.gov.uk/ukpga/1992/52/section/105). Under the Act all property of a trade union is to be vested in trustees. Section 105 provides that on an amalgamation all trust property held for the benefit of the amalgamating unions or their branches will vest automatically in "the appropriate trustees" without any conveyance or assignment (or assignation in Scotland), except -

 (i) property excepted by the instrument of amalgamation from the operation of section 105, and

 (ii) stocks and securities in public funds (which need the usual transfers of title).

This automatic vesting takes place on the effective date of the instrument - unless the appropriate trustees have not been appointed at that time, when it will be deferred until they are appointed.

The "appropriate trustees" are the trustees of the amalgamated union in every case except one. That case concerns any property which is to be held for a branch of the amalgamated union, and "the appropriate trustees" of that property are the trustees of that branch. However, even in that case if the rules of the amalgamated union provide that such branch property is to be held by the trustees of the amalgamated union itself then the appropriate trustees will be the trustees of the amalgamated union.

The result is that the property of the amalgamating unions (except public stocks and securities) will transfer automatically unless anything is stated in the instrument of amalgamation. Nothing need be said in the instrument about any property which the parties are content to allow to vest in the trustees of the amalgamated union. Nor is anything required to be said about property which is intended to be vested in the trustees of the amalgamated union for the benefit of that branch (since they are the "appropriate trustees" for that property). However, it might be advisable for purposes of clarity to specify in the instrument any property which is to be held for the benefit of a branch identifying the branch expressly. But if any property of an amalgamating union is intended to be transferred to any recipient other than the "appropriate trustees" then that property must be specified in the instrument, and the instrument must also state what is to be done with it. An example might be a proposal to transfer certain property into a special trust fund for members or officials of one of the amalgamating unions who have already retired.

* 1. **Without prejudice [**[**to section 101 of the Act**](http://www.legislation.gov.uk/ukpga/1992/52/section/101)**], the instrument shall state the date on which it is to take effect.**

The instrument cannot take effect earlier than the date of its registration ([section 101 of the Act](http://www.legislation.gov.uk/ukpga/1992/52/section/101)). It may provide that it is to take effect on the date of registration, or that it is to take effect on a specified date. If a date is specified, it is advisable to add such words as 'or on the date of registration of this instrument whichever is the later'. This will guard against unforeseen delays.

* 1. **The instrument shall be signed by three members of the committee of management or other governing body, and the secretary, of each of the amalgamating organisations.**

Before the instrument is signed it is usual and advisable to send a draft to the Certification Office for examination in case revisions are necessary before it can be approved. When the draft has been agreed two copies should be signed in the manner indicated and the originals, not photocopies, sent for the formal approval of the Certification Officer who will return one copy endorsed 'Approved'.