

**National Union of Mineworkers (Leicester Area)
removal from the list of trade unions**

Date of decision/removal

24 June 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 Union of Mineworkers (Leicester Area) 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 Union of Mineworkers (Leicester Area) (“the ‘Union’” or “the NUM (Leicester Area)”) is Mr Peter Smith. In a telephone conversation with my office in December 2015, Mr Smith sought advice on the process for dissolving the organisation. During the course of this conversation and in later correspondence certain information emerged, which caused me to consider whether the NUM (Leicester Area) continues to meet the definition of a trade union in section 1 of the 1992 Act.
2. Mr Smith’s informed my office that none of the members of the NUM (Leicester Area) were any longer employed in the coal mining or related industries, as required by the rules of the ‘Union’. He further noted that, as there was no coal mining industry in the Leicester area, there could not be any such members.
3. 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”.
4. The 1992 Act further provides that where it appears to me that an organisation whose name is entered in the list of trade unions is not a trade union, I may remove its name from the list. 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”.

5. The rules of the NUM (Leicester Area) include the following provisions,

“2. Constitution

The union shall be composed of workers employed on or connected with the coalmining industry and ancillary undertakings.

3. ...

4. Objects

The objects of the union shall be:

(a) to act as a trade union

(b) to secure the complete organisation of all workers in or connected with the coalmining industry of the British Isles and all industries and undertakings in which the Union has members or such sections of them as the Area Executive may from time to time determine.”

6. In a letter to my office dated 28 April 2016, Mr Smith provided a schedule of the employment status of the 65 current members of the NUM (Leicester Area). In this schedule 22 members were described as retired, 6 as unemployed, and the remaining 37 as being employed by 29 different employers. Of the 37 employed members Mr Smith stated *“none of these individuals are employed in the coal mining industry or related industries or enterprises”*. I have been provided with the names of the 29 employer companies or organisations. Some of these are familiar names, for example Royal Mail, Jaguar Landrover, Pirelli Tyres. Others are less well known undertakings. However, I do not consider it necessary that I should investigate each of them to test Mr Smith’s assertion given that it is widely known that there is no longer a coal mining industry in Leicester or its wider environs and has not been for some time. I accept Mr Smith’s assertion.
7. I caused a letter to be sent to the ‘Union’ on 2 June 2016 informing Mr Smith that I was considering using my powers under section 4(1) of the 1992 Act to remove the name of NUM (Leicester Area) from the list of trade unions. I informed Mr Smith that it appeared to me that the NUM (Leicester Area) no longer consisted wholly or mainly of workers of the relevant description and therefore was no longer within the statutory definition of a trade union. I invited the ‘Union’ to comment on this by 4 July.
8. The ‘Union’ replied by a letter dated 6 June, signed by Mr Smith, in which he stated that he noted my interpretation of the law and its application to the facts and agreed with my conclusion.

9. For a body to meet the statutory definition of a trade union it must satisfy all three strands of the definition in section 1 of the 1992 Act. That is to say, it must be an organisation, 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.
10. In relation to the first of these strands there is no suggestion that the NUM Leicester Area is not an organisation. It has, for example, its own property and has trustees in whom its property is vested. It has rules. It has members who pay regular subscriptions to maintain membership. It has elected officials and other attributes of a functioning organisation.
11. In relation to the second and third strands the position is less clear cut. Whilst the rules provide for a description of member it is admitted by the 'Union' that none of the persons currently listed as members fall within that description. Further, the 'Union's' objects are to secure the complete organisation of workers in the coal mining industry and industries in which it has members. However, as members can only be employed in or connected with the coal mining industry and ancillary undertakings the wider of these formulations appears to be tautologous. The reality remains that the 'Union' has no members within the description of permitted members according to rule 2 of its rules and there is no longer a coal mining industry in the Leicester area within which the 'Union' can seek to regulate relations.
12. The determination of whether or not an organisation continues to satisfy the statutory definition of a trade union is fact specific. Each case must be considered on its own facts. The rules of each organisation will differ as will the factual matrices. On the facts of this case and on the rules of the NUM (Leicester Area), I find that this organisation does not consist of members within its own definition of members. Further and/or in the alternative I find that the principal purposes of an organisation without members within the meaning of its own rules is unlikely to be the regulation of relations of these non-existent members.
13. For the above reasons I conclude that the National Union of Mineworkers (Leicester Area) 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.



David Cockburn
The Certification Officer