

# **CODE OF PRACTICE**

## **PICKETING**

(Last updated September 1998)

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## **Preamble**

The legal framework within which this Code will operate is explained in the text. While every effort has been made to ensure that explanations included in the Code are accurate, only the courts can give authoritative interpretation of the law.

The Code's provision apply equally to men and to women, but for simplicity the masculine pronoun is used throughout. Wherever it appears in the Code, the word "court" is used to mean the High Court, but without prejudice to the Code's relevance to any proceedings before any other court.

Passages in this Code which are printed on a coloured background outline or re-state provisions in primary legislation.

This Code is issued under Article 95 of the Industrial Relations (Northern Ireland) Order 1992. It came into operation by order of the Department of Economic Development, on 1 September 1998<sup>1</sup>.

# Section A

## Introduction

1. The purpose of this Code is to provide practical guidance on picketing in trade disputes for those:
  - contemplating, organising or taking part in a picket or activities associated with picketing, such as assemblies or demonstrations; and/or
  - employers, workers or members of the general public who may be affected by a picket or any associated activities.
2. There is no legal "right to picket" as such, but attendance for the purpose of peaceful picketing has long been recognised to be a lawful activity. However, the law imposes certain limits on how, where and for what purpose such picketing can be undertaken. These limits help ensure proper protection for those who may be affected by picketing - including those who wish to cross a picket line and go to work.
3. It is a **civil** wrong, actionable in the civil courts, to persuade someone to break his contract of employment, or to secure the breaking of a commercial contract. But the law exempts from this liability those acting in contemplation or furtherance of a trade dispute, including - in certain circumstances - pickets themselves.
4. The exemption is provided by means of special "statutory immunities" to prevent liability arising to such **civil law** proceedings. These immunities - which are explained in more detail in [Section B](#) of this Code - have the effect that trade unions and individuals can, in certain circumstances, organise or conduct a picket without fear of being successfully sued in the courts. However, this protection applies only to acts of inducing breach, or interference with the performance, of contracts, or threatening to do either of these things.
5. These "statutory immunities" afford no protection for a picket, anyone involved in activities associated with picketing, or anyone organising a picket who commits some other kind of civil wrong - such as trespass or nuisance<sup>2</sup>. Nor do they protect anyone - whether a picket, an employee who decides to take industrial action or to break his

contract of employment because he is persuaded to do so by a picket, or anyone else - from the consequences which may follow if they choose to take industrial action or break their contracts of employment. These could include, for example, loss of wages, or other disciplinary action or dismissal from employment.

6. The **criminal** law applies to pickets just as it applies to everyone else. No picket, person involved in activities associated with picketing, or person organising a picket, has any exemption from the provisions of the criminal law as this applies, for example, to prevent obstruction, preserve public order, or regulate assemblies or demonstrations.
7. This Code outlines aspects of the law on picketing - although it is, of course, for the courts and industrial tribunals to interpret and apply the law in particular cases. Sections **B** and **C**, respectively, outline provisions of the civil and criminal law and, where relevant, give guidance on good practice. Section **D** describes the role of the police in enforcing the law. Sections **E**, **F** and **G** also give guidance on good practice in relation to the conduct of particular aspects of picketing and certain activities associated with picketing.
8. The Code itself imposes no legal obligations and failure to observe it does not by itself render anyone liable to proceedings. But statute law provides that any provisions of the Code are to be admissible in evidence and taken into account in proceedings before any court or industrial tribunal where they consider them relevant.

## Section B

### Picketing and the Civil Law

9. The law sets out the basic rules which must be observed if picketing is to be carried out, or organised, lawfully. To keep to these rules, attendance for the purpose of picketing may only:
  - (i) be undertaken in contemplation or furtherance of a trade dispute;

(ii) be carried out by a person attending at or near his own place of work; a trade union official, in addition to attending at or near his own place work, may also attend at or near the place of work of a member of his trade union whom he is accompanying on the picket line and whom he represents.

Furthermore, the only purpose involved must be peacefully to obtain or communicate information, or peacefully to persuade a person to work or not to work.

10. Picketing commonly involves persuading workers to break, or interfere with the performance of, their contracts of employment by not going into work. Picketing can also disrupt the business of the employer who is being picketed by interfering with the performance of commercial contract which the employer has with a customer or supplier. If pickets follow the rules outlined in paragraph 9, however, they may have the protection against civil proceedings afforded by the "statutory immunities". These rules, and immunities, are explained more fully in paragraphs 11 to 30 below.

### **In contemplation or furtherance of a trade dispute**

11. Picketing is lawful only if it is carried out in contemplation or furtherance of a "trade dispute". A "trade dispute" is defined in law so as to cover the matters which normally occasion disputes between employers and workers - such as terms and conditions of employment, the allocation of work, matters of discipline, trade union recognition.

### **"Secondary" action**

12. The "statutory immunities" do not apply to protect a threat of, or a call for or other inducement of "secondary" industrial action. The law defines "secondary" action - which is sometimes referred to as "sympathy" or "solidarity" action - as that by workers whose employer is not a party to the trade dispute to which the action relates.

13. However, a worker employed by a party to a trade dispute, picketing at his own place of work may try to persuade another worker, not employed by that employer, to break, or interfere with the performance of, the second worker's contract of employment, and/or to interfere with the performance of a commercial contract. This could happen, for example, if a picket persuaded a lorry driver employed by another employer not to cross the picket line and deliver goods to be supplied, under a commercial contract, to the employer in dispute. Such an act by a picket would be an unlawful inducement to take secondary action unless provision was made to the contrary.

14. Accordingly, the law contains provisions which make it lawful for a peaceful picket, at the picket's own place of work, to seek to persuade workers other than those employed by the picket's own employer not to work, or not to work normally. To have such protection, the peaceful picketing must be done:

(a) by a worker employed by the employer who is party to the dispute<sup>3</sup>; or

(b) by a trade union official whose attendance is lawful (see paragraphs 22 - 23 below).

15. Where an entrance or exit is used jointly by the workers of more than one employer, the workers who are not involved in the dispute to which a picket relates should not be interfered with by picketing activities. Particular care should be taken to ensure that picketing does not involve calls for a breach, or interference with the performance, of contracts by employees of the other employer(s) who are not involved in the dispute. Observing the principle will help avoid consequences which might otherwise be damaging and disruptive to good industrial relations.

#### **Attendance at or near a picket's own place of work**

16. It is lawful for a person to induce breach, or interference with the performance, of a contract in the course of attendance for the purpose of picketing only if he pickets at or near his own place of work.

17. The expression "at or near his own place of work" is not further defined in statute law. The provisions mean that, except for those covered by paragraphs 22 and 23 below, lawful picketing must be limited to attendance at, or near, an entrance to or exit from the factory, site or office at which the picket works. Picketing should be confined to a location, or locations, as near as practicable to the place of work.

18. The law does not enable a picket to attend lawfully at an entrance to, or exit from, any place of work other than his own. This applies even, for example, if those working at the other place of work are employed by the same employer, or are covered by the same collective bargaining arrangements as the picket.

19. The law identifies two specific groups in respect of which particular arrangements apply. These groups are:

- those (e.g. mobile workers) who work at more than one place; and
- those for whom it is impracticable to picket at their own place of work because of its location.

The law provides that it is lawful for such workers to picket those premises of their employer from which they work, or those from which their work is

administered. In the case of lorry drivers, for example, this will usually mean, in practice, the premises of their employer from which their vehicles operate.

20. Special provisions also apply to people who are not in work, and who have lost their jobs for reasons connected with the dispute which has occasioned the picketing.

This might arise, for example, where the dismissal of a group of employees has led directly to the organisation of a picket, or where an employer has dismissed employees because they refuse to work normally, and some or all of those dismissed then wish to set up a picket.

In such cases the law provides that it is lawful for a worker to picket at his former place of work. This special arrangement ceases to apply, however, to any worker who subsequently takes a job at another place of work.

21. The law does not protect anyone who pickets without permission on or inside any part of premises which are private property. The law will not, therefore, protect

pickets who trespass, or those who organise such trespass, from being sued in the civil courts.

## Trade union officials

22. For the reasons described in [Section F](#) of this Code, it may be helpful to the orderly organisation and conduct of picketing for a trade union official<sup>4</sup> to be present on a picket line where his members are picketing. The law provides that it is lawful for

a trade union official to picket at any place of work provided that:

(i) he is accompanying members of his trade union who are picketing lawfully at or near their own place of work; and

(ii) he personally represents those members.

23. If these conditions are satisfied, then a trade union official has the same legal protection as other pickets who picket lawfully at or near their own place of work.

However, the law provides that an official - whether a lay official or an employee of the union - is regarded for this purpose as representing only those members of his union whom he has been specifically appointed or

elected to represent. An official cannot, therefore, claim that he represents a group of members simply because they belong to his trade union. He must represent and be responsible for them in the normal course of his trade union duties. For example, it is lawful for an official - such as shop steward - who represents members at a particular place of work to be present on a picket line where those members are picketing lawfully; for a branch official to be present only where members of his branch are lawfully picketing; for a regional official to be present only where members of his region are lawfully picketing; for a national official who represents a particular trade group or section within the union, to be present wherever members of that trade group or section are lawfully picketing; and for a national official such as a general secretary or president who represents the whole union to be present wherever any members of his union are picketing lawfully.

## Lawful purposes of picketing

24. In no circumstances does a picket have power, under the law, to require other people to stop, or to compel them to listen or to do what he asks them to do. A person who decides to cross a picket line **must** be allowed to do so. In addition, the law provides a remedy for any union member who is disciplined by his union because he has crossed a picket line<sup>5</sup>.
25. The **only** purposes of picketing declared lawful in statute are:
- peacefully obtaining and communicating information; and
  - peacefully persuading a person to work or not to work.
26. The law allows pickets to seek to explain their case to those entering or leaving the picketed premises, and/or to ask them not to enter or leave the premises where the dispute is taking place. This may be done by speaking to people, or it may involve the distribution of leaflets or the carrying of banners or placards putting the pickets' case. **In all cases, however, any such activity must be carried out peacefully.**
27. The law protects peaceful communication and persuasion. It does not give pickets, anyone organising or participating in any activity associated with picketing, or anyone organising a picket, protection against civil proceedings being brought against them for any conduct occurring during the picketing, or associated activity, which amounts to a separate civil wrong such as:
- unlawful threat or assault;
  - harassment (i.e. threatening or unreasonable behaviour causing fear or apprehension to those in the vicinity);
  - obstruction of a path, road, entrance or exit to premises;
  - interference (e.g. because of noise or crowds) in the rights of those neighbouring properties (i.e. "private nuisance");

- trespassing on private property.

28. Both individual pickets, and anyone - including a union - organising a picket or associated activity, should be careful not to commit such civil wrongs. It is possible, for example, that material on placards carried by pickets - or, for that matter, by those involved in activities associated with picketing - could be defamatory or amount to a threat or harassment. Pickets will also have no legal protection if they do or say things, or make offensive gestures at people, which amount to unlawful threat or harassment. [Section C](#) of this Code explains that such actions may also give rise to prosecution under the criminal law.

29. Similarly, if the noise or other disturbance caused to residents of an area by pickets, or those associated with picketing activity, amounts to a civil wrong, those involved or responsible are not protected by the law from proceedings being brought against them.

30. Similar principles apply in respect of any breach of the criminal law by pickets, or their organiser. As explained in [Section C](#) of this Code, a picket, or anyone involved in an associated activity, who threatens or intimidates someone, or obstructs an entrance to a workplace, or causes a breach of the peace, commits a criminal offence. Where pickets commit a criminal offence, then in many circumstances they will not be acting peacefully; consequently, any immunity under the civil law will be lost.

### **Seeking redress**

31. An employer, a worker, or anyone else who is party to a contract which is, or may be, broken or interfered with by unlawful picketing has a civil law remedy. He may apply to the court for an order<sup>6</sup> preventing, or stopping, the unlawful picketing, or its organisation. Such a person may also claim damages from those responsible where activities of the unlawful picket have caused him loss. An order can be sought against the person - which could include a particular trade union or unions - on whose instructions or advice the unlawful picketing is taking place, or will take place.

32. In making an order, the court has authority to require a trade union which has acted unlawfully to take such steps as are considered necessary to ensure that there is no further call for, or other organisation of, unlawful picketing. An order may be granted by the court on an interim basis, pending a full hearing of the case.
33. If a court order is made, it can apply not only to the person or union named in the order, but to anyone else acting on his behalf or on his instructions. Thus an organiser of unlawful picketing cannot avoid liability, for example, merely by changing the people on the unlawful picket line from time to time.
34. Similarly, anyone who is wronged in any other way by a picket can seek an order from the court to get the unlawful act stopped or prevented, and/or for damages. Thus, for example, if picketing, or associated activities, give rise to unlawful disturbance to residents in the vicinity, one or more of the residents so affected can apply to the court for such an order and/or for damages. Such proceedings might be taken against individual pickets, or the person - including a union where applicable – responsible for the unlawful act.
35. If a court order is not obeyed, or is ignored, those who sought it can go back to court and ask to have those concerned declared in contempt of court. Anyone who is found to be in contempt of court may face heavy fines, or other penalties, which the court may consider appropriate. For example, a union may be deprived of its assets through sequestration, where the union's funds are placed in the control of a person appointed by the court who may, in particular, pay any fines or legal costs arising from the court proceedings. Similarly, if a person knows that such an order has been made against someone, or some union, and yet aids and abets that person to disobey or ignore the order, he may also be found to be acting in contempt of court and liable to be punished by the court.

### **Determining whether a union is responsible**

36. Pickets will usually attend a place of work for the purpose of persuading others not to work, or not to work normally, and may thereby be inducing them to breach, or interfere with the performance of, contracts. The law lays down rules which determine whether a union will be held liable for any such acts of inducement which

are unlawful.

37. The law provides that a union will be held responsible for such an unlawful act if it is done, authorised or endorsed by:
- (a) the union's executive, president, or general secretary;
  - (b) any person given power under the union's own rules to do, authorise or endorse acts of the kind in question; or
  - (c) any other committee of the union, or any official of the union<sup>7</sup> - including those who are employed by the union, and those, like shop stewards, who are not<sup>8</sup>.

A union will be held responsible for such an act by such a body or person of any provisions to the contrary in its own rules, or anything in any other contract or rule of law.

38. Pickets may, of course, commit civil wrongs other than inducing breach, or interference with the performance, of contracts. The question of whether a union will be held responsible for those wrongs will be determined according to common law principles of liability, rather than by reference to the rules described in paragraph 37 above.

### **The need for a ballot**

39. If what is done in the course of picketing amounts to a call for industrial action, and is an act for which the union is responsible in law, the union can only have the protection of statutory immunity if it has first held a properly-conducted secret ballot.

40. The law requires that entitlement to vote in such a ballot must be given to all the union's members who it is reasonable at the time of the ballot for the union to believe will be called upon to take part in, or continue with, the industrial action, and to no other member. The ballot must produce a majority

of those voting which is in favour of taking, or continuing with, industrial action. These, and other requirements of the law in respect of such ballots, are contained in the “[Code of Practice on Industrial Action Ballots and Notice to Employers](#)”

## Section C

### Picketing and the Criminal Law

41. If a picket commits a criminal offence he is just as liable to be prosecuted as any other member of the public who breaks the law. The immunity provided under the civil law does not protect him in any way.
42. The criminal law protects the right of every person to go about his lawfully daily business free from interference by others. No one is under any obligation to stop when a picket asks him to do so, or, if he does stop, to comply with a request, for example, not to go into work. Everyone has the right, if he wishes to do so, to cross a picket line in order to go into his place of work or to deliver or collect goods. A picket may exercise peaceful persuasion, but if he goes beyond that and tries by means other than peaceful persuasion to deter another person from exercising those rights he may commit a criminal offence.
43. Among other matters, it is a criminal offence for pickets (as for others):
  - To unlawfully cause by force, threats or menaces, or in any way whatsoever, any other person –
    - to leave any place where that other person is for the time being resident or in occupation,
    - to leave his employment,
    - to terminate the service or employment of any person, or
    - to do or refrain from doing any act;

- to use threatening, abusive or insulting words or behaviour; or display anything or do any act; or cause or permit, as owner or occupier of any land or premises, anything to be displayed or any act to be done, with intent to provoke a breach of the peace or by which a breach of the peace or public disorder is likely to be occasioned;
- to use or threaten unlawful violence;
- to wilfully obstruct or seek to obstruct traffic, or wilfully hinder or seek to hinder any lawful activity, by sitting, standing, kneeling, lying down or otherwise conduct themselves in a public place;
- to be in possession of an offensive weapon;
- to intentionally or recklessly to damage property;
- to engage in riotous or disorderly behaviour or to take any action which is likely to lead to a breach of the peace;
- to obstruct a police officer in the execution of his duty;
- to, with a view to compelling another person to abstain from doing or to do any act which that person has a legal right to do or abstain from doing, wrongfully and without legal authority –
  - use violence to or intimidate that person or his wife or children, or injure his property,
  - persistently follow that person about from place to place, hide any tools, clothes or other property owned or used by that person, deprive him of or hinder him in the use thereof,
  - watch or beset the house or other place where that person resides, works, carries on business or happens to be, or the approach to any such house or place, or

- follow that person with two or more other persons in a disorderly manner in or through any street or road.

44. A picket has no right under the law to require a vehicle to stop or to be stopped. The law allows him only to ask a driver to stop by words or signals. A picket may not physically obstruct a vehicle if the driver decides to drive on, or, indeed, in any other circumstances. A driver must - as on all other occasions - exercise due care and attention when approaching or driving past a picket line, and may not drive in such a manner as to give rise to a reasonably foreseeable risk of injury.

## Section D

### Role of the Police

45. It is not the function of the police to take a view of the merits of a particular trade dispute. They have a general duty to uphold the law and keep the peace, whether on the picket line or elsewhere. The law gives the police discretion to take whatever measures may reasonably be considered necessary to ensure that picketing remains peaceful and orderly.

46. The police have **no** responsibility for enforcing the **civil law**. An employer cannot require the police to help in identifying the pickets against whom he wishes to seek an order from the civil court. Nor is it the job of the police to enforce the terms of an order. Enforcement of an order on the application of a plaintiff is a matter for the court and its officer. The police may, however, decide to assist the officers of the court if they think there may be a breach of the peace.

47. As regards the **criminal law** the police have considerable discretionary powers to limit the number of pickets at any one place where they have reasonable cause to fear disorder. The law does not impose a specific limit on the number of people who may picket at any one place; nor does this Code affect in any way the discretion of the police to limit the number of people on a particular picket line. It is for the police to decide, taking into account all the circumstances, whether the number of pickets at any particular place provides reasonable grounds for the belief that a breach of the peace is likely to occur. If a picket does not leave the picket line

when asked to do so be the police, he is liable to be arrested for obstruction either of the highway or of a police officer in the execution of his duty if the obstruction is such as to cause, or be likely to cause, a breach of the peace.

## Section E

### Limiting Numbers of Pickets

48. Violence and disorder on the picket line is more likely to occur if there are excessive numbers of pickets. Wherever large numbers of people with strong feelings are involved there is a danger that the situation will get out of control, and that those concerned will run the risk of committing an offence, with consequent arrest and prosecution, or of committing a civil wrong which exposes them, or anyone organising them, to civil proceedings.

49. This is particularly so whenever people seek by sheer weight of numbers to stop others going into work or delivering or collecting goods. In such cases, what is intended is not peaceful persuasion, but obstruction or harassment-if not intimidation. Such a situation is often described as "mass picketing". In fact, it is not picketing in its lawful sense of an attempt at peaceful persuasion, and may well result in a breach of the peace or other criminal offences.

50. Moreover, anyone seeking to demonstrate support for those in dispute should keep well away from any picket line so as not to create a risk of a breach of the peace or other criminal offence being committed on that picket line. Just as with a picket itself, the numbers involved in any such demonstration should not be excessive, and the demonstration should be conducted lawfully. Article 4 of the Public Order (NI) Order 1987 provides the police with the power to impose conditions (for example, as to numbers, location and duration) on a public meeting where it is likely to result in serious public disorder; or serious damage to property; or serious disruption to the life of the community; or if its purpose is to coerce.

51. Large numbers on a picket line are also likely to give rise to fear and resentment amongst those seeking to cross that picket line, even where no criminal offence is

committed. They exacerbate disputes and sour relations not only between management and employees but between the pickets and their fellow employees.

**Accordingly, pickets and their organisers should ensure that in general the number of pickets does not exceed six at any entrance to, or exit from, a workplace; frequently a smaller number will be appropriate.**

## **Section F**

### **Organisation of Picketing**

52. Sections [B](#) and [C](#) of this Code outline aspects of the civil law and the criminal law, as they may apply to pickets, and to anyone, including a trade union, who organises a picket. While it is possible that a picket may be entirely "spontaneous", it is much more likely that it will be organised by an identifiable individual or group.

53. Paragraphs 36-38 in [Section B](#) of this Code describe how to identify whether a trade union is, in fact, responsible in terms of civil law liability, for certain acts. As explained in these paragraphs, the law means, for example, that if such an act takes place in the course of picketing, and if a trade union official has done, authorised or endorsed the act, then the official's union will be responsible in law unless the act is "effectively repudiated" by the union's national leadership.

### **Functions of the picket organiser**

54. Wherever picketing is "official" (i.e. organised by a trade union), an experienced person, preferably a trade union official who represents those picketing, should always be in charge of the picket line. He should have a letter of authority from his union which he can show to the police officers or to the people who want to cross the picket line. Even when he is not on the picket line himself, he should be available to give the pickets advice if a problem arises.

55. A picket should not be designated as an "official" picket unless it is actually organised by a trade union. Nor should pickets claim the authority and support of a union unless the union is prepared to accept the consequent responsibility. In

particular, union authority and support should not be claimed by the pickets if the union has, in fact, repudiated calls to take industrial action made, or being made, in the course of the picketing.

56. Whether a picket is "official" or "unofficial", an organiser of pickets should maintain close contact with the police. Advance consultation with the police is always in the best interests of all concerned. In particular the organiser and the pickets should seek directions from the police on the number of people who should be present on the picket line at any one time and on where they should stand in order to avoid obstructing the highway.

57. The other main functions of the picket organiser should include ensuring that:

- the pickets understand the law and are aware of the provisions of this Code, and that the picketing is conducted peacefully and lawfully;
- badges or armbands, which authorised pickets should wear so that they are clearly identified, are distributed to such pickets and are worn while they are picketing;
- workers from other places of work do not join the picket line, and that any offers of support on the picket line from outsiders are refused;
- the number of pickets at any entrance to, or exit from, a place of work is not so great as to give rise to fear and resentment amongst those seeking to cross that picket line (see paragraph 51 in [Section E](#) of this Code);
- close contact with his own union office (if any), and with the offices of other unions if they are involved in the picketing, is established and maintained;
- such special arrangements as may be necessary for essential supplies, services or operations (see paragraphs 61-63 in [Section G](#) of this Code) are understood and observed by the pickets.

## Consultation with other trade unions

58. Where several unions are involved in a dispute, they should consult each other about the organisation of any picketing. It is important that they should agree how the picketing is to be carried out, how many pickets there should be from each union, and who should have overall responsibility for organising them.

## Right to cross picket lines

59. Everyone has the right to decide for himself whether he will cross a picket line. Disciplinary action should not be taken or threatened by a union against a member on the grounds that he has crossed a picket line.

60. If a union disciplines any member for crossing a picket line, the member will have been "unjustifiably disciplined". In such a case, the individual can make a complaint to an industrial tribunal. If the tribunal finds the complaint well-founded, it will make a declaration to that effect, and the member can apply to the tribunal for an award of compensation.

## Section G

### Essential Supplies, Services and Operations

61. Pickets, and anyone organising a picket should take very great care to ensure that their activities do not cause distress, hardship or inconvenience to members of the public who are not involved in the dispute. Particular care should be taken to ensure that the movement of essential goods and supplies, the carrying out of essential maintenance of plant and equipment, and the provision of services essential to the life of the community are not impeded, still less prevented.

62. The following list of essential supplies and services is provided as an illustration of the kind of activity which requires special protection to comply with the recommendations in paragraph 61 above. However, **the list is not intended to be comprehensive**. The supplies and services which may need to be protected in

accordance with these recommendations could cover different activities in different circumstances. Subject to this caveat, "essential supplies, services and operations" include:

- the production, packaging, marketing and/or distribution of medical and pharmaceutical products;
- the provision of supplies and services essential to health and welfare institutions, e.g. hospitals, old peoples' homes;
- the provision of heating fuel for schools, residential institutions, medical institutions and private residential accommodation;
- the production and provision of other supplies for which there is a crucial need during a crisis in the interests of public health and safety; (e.g. chlorine, lime and other agents for water purification; industrial and medical gases; sand and salt for road gritting purposes);
- activities necessary to the maintenance of plant and machinery;
- the proper care of livestock;
- necessary safety procedures (including such procedures as are necessary to maintain plant and machinery);
- the production, packaging, marketing and/or distribution of food and animal feeding stuffs;
- the operation of essential services, such as police, fire, ambulance, medical and nursing services, air safety, coastguard and air sea rescue services, and services provided by voluntary bodies (e.g. Red Cross and St. John's ambulances, meals on wheels, hospital car service), and mortuaries, burial and cremation services.

63. Arrangements to ensure these safeguards for essential supplies, services and operations should be agreed in advance between the pickets, or anyone organising

the picket, and the employer, or employers, concerned.

## Endnotes

1. Responsibility for this Code of Practice transferred from the Department of Economic Development in 1999 to the Department of Higher and Further Education, Training and Employment, the latter was subsequently renamed the Department for Employment and Learning in 2001.
2. See the further explanation in paragraph 27 in [Section B](#) of the Code.
3. However, the peaceful picketing may be done by a worker who is not in employment but was last employed by the employer in dispute in certain circumstances - see paragraph 20.
4. The law defines an "official of the union" as a person who is an officer of the union (or of a branch or section of the union), or who, not being such an officer, is a person elected or appointed in accordance with the rules of the union to be representative of its members (or 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 elected to represent. This could include, for example, a shop steward.
5. A member disciplined for crossing a picket line is "unjustifiably disciplined"; the remedy for unjustifiable discipline is by complaint to an industrial tribunal. (See also paragraphs 60 in [Section F](#) of this Code.)
6. i.e. an injunction.
7. See footnote to paragraph 22 for the relevant definition of "official". In this case, however, an act will also be taken to have been done by an "official of the union" if it was done (or authorised or endorsed) by a group of persons, or any member of a group, to which such an official belonged at the relevant time if the group's purposes included organising or co-ordinating industrial action.

8. However, if an act which is done (or authorised or endorsed) by a union committee or official is "effectively repudiated" by the union's executive, president or general secretary, the union will not be held responsible in law. In order to avoid liability in this way, the act concerned must be repudiated by any of these as soon as reasonably practicable after it has come to their knowledge. In addition, the union must, without delay:
- (a) give written notice of the repudiation to the committee or official in question; and
  - (b) do its best to give individual written notice of the fact and date of the repudiation to:
    - (i) every member of the union who it has reason to believe is taking part - or might otherwise take part - in industrial action as a result of the act; and
    - (ii) the employer of every such member.