
STATUTORY INSTRUMENTS

1992 No. 807

The Industrial Relations (Northern Ireland) Order 1992

PART II

**DEFINITION, STATUS AND GENERAL REGULATION
OF TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS**

Listing and certification

Certification as independent trade union

6.—(1) Subject to paragraph (12), a trade union whose name is entered on the list of trade unions maintained under Article 5 may apply to the Certification Officer for a certificate that it is independent.

(2) An application under paragraph (1) shall be made in such form and manner as the Certification Officer may require and shall be accompanied by a fee of £305 or such other fee as may be prescribed by regulations.

(3) The Certification Officer shall maintain a record showing details of all applications made under paragraph (1) and shall keep it available for public inspection (free of charge) at all reasonable hours.

(4) If an application is made, or by virtue of paragraph (13) is treated as being made, by a trade union whose name is not entered on the list of trade unions maintained under Article 5, the Certification Officer shall refuse a certificate of independence and shall enter that refusal on the record maintained in accordance with paragraph (3).

(5) In the case of an application not falling within paragraph (4), the Certification Officer shall—

- (a) determine whether the applicant trade union is independent;
- (b) enter his decision and the date of his decision on the record maintained in accordance with paragraph (3); and
- (c) if he determines that the trade union is independent, issue a certificate accordingly, or, if he determines that it is not, give reasons for his decision.

(6) The Certification Officer shall not make any determination under paragraph (5) whether a trade union is independent until one month after the application has been entered on the record in accordance with paragraph (3), and before making such a determination he shall make such inquiries as he thinks fit and shall take into account any relevant information submitted to him by any person.

(7) The Certification Officer may at any time withdraw a certificate, in accordance with paragraph (8), if he is of the opinion that the trade union in question is no longer independent.

(8) Where the Certification Officer proposes to withdraw a certificate under paragraph (7)—

- (a) he shall notify the trade union concerned of the proposal;
- (b) paragraphs (3), (5) and (6) shall apply (with appropriate modifications) to such a proposal as they apply to an application under paragraph (1); and

(c) the Certification Officer shall confirm or withdraw the certificate accordingly.

(9) A trade union aggrieved by the refusal of the Certification Officer to issue it with a certificate or by a decision of his to withdraw its certificate may appeal, in accordance with Article 70(3), to the High Court; and on any such appeal the High Court, if satisfied that the certificate should be issued or, as the case may be, should not be withdrawn, shall declare that fact and give directions to the Certification Officer accordingly.

(10) Where the name of an organisation is removed from the list of trade unions maintained under Article 5, the Certification Officer shall cancel any certificate of independence in force in respect of that organisation by entering on the record the fact that the organisation's name has been removed from the said list and that the certificate is accordingly cancelled.

(11) A certificate of independence which is in force, or, as the case may be, a refusal, withdrawal or cancellation of a certificate entered on the record, shall be conclusive evidence for all purposes that the trade union in question is, or, as the case may be, is not, independent; and a document purporting to be such a certificate or a certified copy of such an entry on the record, and to be signed by the Certification Officer or by any person authorised to act on his behalf, shall be taken to be such a certificate or a true copy of such an entry unless the contrary is proved.

(12) The preceding provisions of this Article do not apply to a trade union which has its head or main office in Great Britain, but a certificate of independence which is in force under section 8 of the Employment Protection Act 1975⁽¹⁾, or, as the case may be, a refusal, withdrawal or cancellation of a certificate entered on the record maintained under that section shall, in relation to such a trade union, be conclusive evidence for all purposes that the trade union in question is, or, as the case may be, is not, independent; and a document purporting to be such a certificate or a certified copy of such an entry on that record, and to be signed by the Certification Officer appointed under section 7 of that Act or by any person authorised to act on his behalf, shall be taken to be such a certificate or a true copy of such an entry unless the contrary is proved.

(13) If in any proceedings before any court, the Agency, the Industrial Court or an industrial tribunal a question arises as to whether a trade union is independent and there is no certificate of independence in force as mentioned in paragraph (11) or (12) and no refusal, withdrawal or cancellation of a certificate recorded as so mentioned in relation to that trade union—

- (a) the question shall not be decided in those proceedings, and those proceedings shall be stayed until a certificate has been issued or refused under this Article or, as the case may be, section 8 of the Employment Protection Act 1975; and
- (b) if the trade union in question does not have its head or main office in Great Britain, the body before whom the proceedings are stayed may refer the question as to the independence of that trade union to the Certification Officer who shall proceed in accordance with paragraphs (3) to (6) as if the reference were an application by that trade union.

(1) 1975 c. 71