
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

Lists of trade unions and employers' associations

5.—(1) The Certification Officer shall maintain a list of trade unions and a list of employers' associations containing the names of those organisations which are entitled to have their names entered therein under the following provisions of this Article.

(2) The Certification Officer shall enter in the list of trade unions or employers' associations, as the case may be, the name of every organisation of workers or of employers which immediately before the appointed day was registered (whether by that or any other name) in Northern Ireland as a trade union under the Trade Union Acts (Northern Ireland) 1871 to 1965, except an organisation which appears to him not to be a trade union or, as the case may be, employers' association within the meaning of this Order.

(3) Any organisation of workers or of employers, whenever formed, whose name is not entered in the relevant list may apply to the Certification Officer to have its name so entered and, subject to paragraph (5), the Certification Officer shall, if satisfied that the organisation is a trade union or employers' association and that paragraph (4) has been complied with, enter the name of that organisation in the relevant list.

(4) An application under paragraph (3) shall be made in such form and manner as the Certification Officer may require and be accompanied by a fee of £45 or such other fee as may be prescribed by regulations and also by—

- (a) a copy of the rules of the organisation;
- (b) a list of its officers;
- (c) the address of its head or main office; and
- (d) the name under which it is or is to be known.

(5) The Certification Officer shall not under paragraph (3) enter the name of an organisation in the relevant list if that name is—

- (a) the same as a name under which another organisation was registered as a trade union under the Trade Union Acts (Northern Ireland) 1871 to 1965 immediately before the appointed day or is for the time being entered in either list maintained under this Article or in either list maintained under section 8 of the Trade Union and Labour Relations Act 1974(1); or
- (b) a name so nearly resembling any such name as to be likely to deceive the public; or

(c) for any other reason likely to deceive the public.

(6) If it appears to the Certification Officer, whether on application made to him or otherwise, that an organisation whose name is entered in the relevant list is not a trade union or employers' association he may remove its name from the relevant list, but shall not do so without giving the organisation notice of his intention to do so and without considering any representations made to him by the organisation during a period specified in the notice (being not less than 28 days beginning with the date of the notice).

(7) The Certification Officer shall remove the name of an organisation from the relevant list—

- (a) if he is requested by the organisation to do so; or
- (b) if he is satisfied that the organisation has ceased to exist.

(8) Any organisation aggrieved by the refusal of the Certification Officer to enter its name in the relevant list or by a decision of his to remove its name from that list may appeal, in accordance with Article 70(3), to the High Court; and on any such appeal the High Court, if satisfied that the name should be or remain so entered, shall declare that fact and give directions to the Certification Officer accordingly.

(9) The Certification Officer shall at all reasonable hours keep available for public inspection (free of charge) copies of the lists of trade unions and employers' associations, as for the time being in force, and a copy of each list shall be included in the annual report made by the Certification Officer under Article 69(7).

(10) The fact that the name of an organisation is included in the list of trade unions or employers' associations maintained under this Article shall be evidence that the organisation is a trade union or, as the case may be, an employers' association, and on the application of the organisation the Certification Officer shall issue it with a certificate that its name is included in the relevant list; and any document purporting to be such a certificate shall be evidence that the name of the organisation is entered in the relevant list.

(11) The fact that the name of an organisation is included in the list of trade unions or employers' associations maintained under section 8 of the Trade Union and Labour Relations Act 1974(2) shall be evidence that the organisation is a trade union or, as the case may be, an employers' association; and any document purporting to be a certificate issued under subsection (10) of that section shall be evidence that the name of the organisation is entered in the relevant list.

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(3), 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.