

2010 No. 78

TRADE UNIONS

The Trade Union Ballots and Elections (Independent Scrutineer Qualifications) Order (Northern Ireland) 2010

Made - - - - - *10th March 2010*

Coming into operation - - - - - *6th April 2010*

The Department for Employment and Learning^(a), in exercise of the powers conferred by Articles 15(2), 49(2), 77(2) and 106(2) of the Trade Union and Labour Relations (Northern Ireland) Order 1995^(b), and now vested in it^(c), makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Trade Union Ballots and Elections (Independent Scrutineer Qualifications) Order (Northern Ireland) 2010 and shall come into operation on 6th April 2010.

(2) In this Order—

“the 1995 Order” means the Trade Union and Labour Relations (Northern Ireland) Order 1995;

“an individual potentially qualified to be a scrutineer” means an individual who satisfies the requirement specified in either paragraph (a) of Article 3 or paragraph (a) of Article 4;

“the relevant provisions” means the provisions of Articles 15(2)(a), 49(2)(a), 77(2)(a) and 106(2)(a) of the 1995 Order.

Qualifications

2. An individual satisfies the condition specified for the purposes of the relevant provisions in relation to a ballot or election, (as the case may be), if he satisfies the condition specified in Article 3 or 4.

3. An individual satisfies this condition if—

(a) he has in force a practising certificate issued by one or more of the following bodies—

(i) the Law Society of Northern Ireland;

(ii) the Law Society of England and Wales; or

(iii) the Law Society of Scotland;

and;

(b) he is not disqualified from satisfying this condition by virtue of Article 5.

(a) Formerly the Department of Higher and Further Education, Training and Employment; *see* 2001 c. 15 (N.I.)

(b) S.I. 1995/1980 (N.I. 12)

(c) *See* S.R. 1999 No. 481

4. An individual satisfies this condition if—

- (a) he is qualified to be an auditor of a trade union by virtue of paragraph 6 of Schedule 1 to the Industrial Relations (Northern Ireland) Order 1992(a); and
- (b) he is not disqualified from satisfying this condition by virtue of Article 5.

5.—(1) An individual potentially qualified to be a scrutineer does not satisfy the condition specified in article 3 or 4 if he or any existing partner of his has—

- (a) during the preceding 12 months, been a member, an officer or an employee of the trade union proposing to hold the ballot or election; or
- (b) in acting at any time as a scrutineer for any trade union, knowingly permitted any member, officer or employee of the trade union to assist him in carrying out any of the functions referred to in Articles 15(3), 49(3), 77 (3) and 106(1) of the 1995 Order.

(2) References in this Article to an officer shall be construed as not including an auditor.

6. A partnership satisfies the condition specified for the purposes of the relevant provisions in relation to a ballot or election, (as the case may be), if—

- (a) every member of the partnership is an individual potentially qualified to be a scrutineer; and
- (b) no member of the partnership is disqualified from being a scrutineer by virtue of Article 5.

Persons specified by name

7. The following persons are specified for the purposes of the relevant provisions—

Association of Electoral Administrators;

DRS Data Services Limited;

Electoral Reform Services Limited;

Involvement and Participation Association;

Opt2Vote Limited; and

Popularis Limited.

Revocation

8. The Trade Union Elections and Ballots (Independent Scrutineer Qualifications) Order (Northern Ireland) 1992(b) and the Trade Union Elections and Ballots (Independent Scrutineer Qualifications) (Amendment) Order (Northern Ireland) 2003(c) are hereby revoked.

(a) S.I. 1992/807 (N.I. 5); paragraph 6 of Schedule 1 was substituted by paragraph 22 of the Schedule to the Companies (1990 Order) (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations (Northern Ireland) 1993 (S.R. 1993 No. 67) and amended by paragraph 2(g) of Schedule 1 to the Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948).

(b) S.R. 1992 No. 241

(c) S.R. 2003 No. 331

Sealed with the Official Seal of the Department for Employment and Learning on 10th March 2010.



Sir Reg Empey
Minister for Employment and Learning

EXPLANATORY NOTE

(This note is not part of the Order)

Articles 15, 49, 77, and 106 of the Trade Union and Labour Relations (Northern Ireland) Order 1995 require certain ballots and elections that trade unions are required to hold by statute to be supervised by a qualified independent person, known as a “scrutineer”, appointed by the trade union.

The ballots and elections in question are those relating to the election of members of the executive committee and certain officers, the maintenance of a political fund, mergers with another union and the taking of industrial action.

This Order specifies for the purposes of those provisions above the conditions which must be satisfied in order for an individual or partnership to qualify for appointment as a scrutineer and also specifies certain bodies by name as being qualified.

A person who meets the specified conditions or a body specified by name may be appointed as a scrutineer of a ballot or election provided that the trade union has no grounds for believing—

- (a) that the person or body will carry out his functions less than competently; or
- (b) that the independence of the person or body in relation to the union, or the ballot or election, is open to question.

This Order also revokes the Trade Union Elections and Ballots (Independent Scrutineer Qualifications) Order (Northern Ireland) 1992 and the Trade Union Elections and Ballots (Independent Scrutineer Qualifications) (Amendment) Order (Northern Ireland) 2003.

An impact assessment has not been produced for this statutory rule as no impact on the private or voluntary sectors is foreseen.

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