

EXPLANATORY MEMORANDUM TO
THE RECOGNITION AND DERECOGNITION BALLOTS (QUALIFIED PERSONS) (AMENDMENT) ORDER (NORTHERN IRELAND) 2010

S.R. 2010 No. 79

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Employment and Learning (the "Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Paragraphs 25(7)(a) and 117(9)(a) of Schedule 1A to the Trade Union and Labour Relations (Northern Ireland) Order 1995 (the "1995 Order") and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The 1995 Order requires the Industrial Court, where it arranges a ballot on the recognition or derecognition of a trade union for collective bargaining, to appoint a "qualified independent person" to conduct the ballot.
- 2.2. The 1995 Order provides that an individual or partnership must fulfil certain conditions specified by the Department in order to qualify for appointment as a qualified independent person and it also specifies certain bodies by name as being qualified. This Statutory Rule makes two amendments to the Recognition and Derecognition Ballots (Qualified Persons) Order (Northern Ireland) 2001 ("the principal Order"). The list at Article 4 containing bodies specified by name as being qualified for appointment has been replaced. That list was previously replaced by the Recognition and Derecognition Ballots (Qualified Persons) (Amendment) Order (Northern Ireland) 2004 ("2004 Order") which is now revoked by this Order. The conditions at Article 2 of the principal Order, which an individual must satisfy in order to be eligible for appointment have been updated by replacing a reference to the now repealed Article 28 of the Companies (Northern Ireland) Order 1990 with a reference to Part 42 of the Companies Act 2006.

3. Background

- 3.1. The Principal Order specifies the criteria that must be met in order to be a qualified independent person to conduct a ballot on the recognition and derecognition of a trade union for collective bargaining. It also lists the names of those bodies specified by name as being qualified for appointment to conduct a ballot. The list of persons specified by name to act as qualified independent persons was last updated in 2004. Due to interest from other organisations not specified, and a necessity to ensure that existing organisations are still suitably qualified the Department for Employment and Learning and the Department of Business, Innovation and Skills (BIS) held a joint competition on 9 and 10 November 2009 to update the list of qualified independent persons and ensure that the listed organisations were suitably qualified to conduct the necessary ballots.

- 3.2. Following the outcome of the joint competition, the list of persons specified by name in the principal Order has been amended and the 2004 Order has been revoked by this Statutory Rule.

4. Consultation

- 4.1. Consultation was not undertaken as no change in policy was involved. However, as noted above, a public competition was carried out to identify and assess potential new candidates, and to ensure that existing named persons had the requisite independence, experience and resources necessary for undertaking balloting work. The professional bodies representing individuals satisfying the criteria to act as qualified persons, including the Law Society of Northern Ireland, the Institute of Chartered Accountants in Ireland and the Association of Chartered Certified Accountants, were contacted regarding their continued inclusion within the relevant legislation and have agreed to this.

5. Equality Impact

- 5.1. Since there is no change to existing policy and the Statutory Rule only replicates the provisions of the existing qualified persons Order and updates the list of persons specified by name, an Equality Impact Assessment was not considered necessary.

6. Regulatory Impact

- 6.1. An Impact Assessment has not been prepared for this Statutory Rule, as it does not impose any additional regulatory obligation on the private or voluntary sectors.

7. Financial Implications

- 7.1. None

8. Section 24 of the Northern Ireland Act 1998

- 8.1. Not applicable.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. This Statutory Rule mirrors the provisions of the GB Recognition and Derecognition Ballots (Qualified Persons) Order 2000 (Amendment) Order 2010 in relation to amending the list of bodies specified by name as being qualified to be appointed as a qualified independent person to conduct trade union ballots.

11. Additional Information

- 11.1. Not applicable.