
STATUTORY INSTRUMENTS

1995 No. 1980

**The Trade Union and Labour Relations
(Northern Ireland) Order 1995**

PART III

ELECTIONS FOR CERTAIN POSITIONS

Supplementary

Exemption of newly-formed trade unions, etc.

24.—(1) The provisions of this Part do not apply to a trade union until more than one year has elapsed since its formation (by amalgamation or otherwise).

For this purpose the date of formation of a trade union formed otherwise than by amalgamation shall be taken to be the date on which the first members of the executive of the union are first appointed or elected.

(2) Where a trade union is formed by amalgamation, the provisions of this Part do not apply in relation to a person who—

- (a) by virtue of an election held a position to which this Part applies in one of the amalgamating unions immediately before the amalgamation, and
- (b) becomes the holder of a position to which this Part applies in the amalgamated union in accordance with the instrument of transfer, until after the end of the period for which he would have been entitled in accordance with this Part to continue to hold the first-mentioned position without being re-elected.

(3) Where a trade union transfers its engagements to another trade union, the provisions of this Part do not apply in relation to a person who—

- (a) held a position to which this Part applies in the transferring union immediately before the transfer, and
- (b) becomes the holder of a position to which this Part applies in the transferee union in accordance with the instrument of transfer, until after the end of the period of one year beginning with the date of the transfer or, if he held the first-mentioned position by virtue of an election, any longer period for which he would have been entitled in accordance with this Part to continue to hold that position without being re-elected.

Exemption of certain persons nearing retirement

25.—(1) Article 12(1)(b) (requirement of re-election) does not apply to a person holding a position to which this Part applies if the following conditions are satisfied.

(2) The conditions are that—

- (a) he holds the position by virtue of having been elected at an election in relation to which the requirements of this Part were satisfied,

- (b) he is a full-time employee of the union by virtue of the position,
 - (c) he will reach retirement age within five years,
 - (d) he is entitled under the rules of the union to continue as the holder of the position until retirement age without standing for re-election,
 - (e) he has been a full-time employee of the union for a period (which need not be continuous) of at least ten years, and
 - (f) the period between the day on which the election referred to in sub-paragraph (a) took place and the day immediately preceding that on which sub-paragraph (c) is first satisfied does not exceed five years.
- (3) For the purposes of this Article “retirement age”, in relation to any person, means the earlier of—
- (a) the age fixed by, or in accordance with, the rules of the union for him to retire from the position in question, or
 - (b) the age which is for the time being pensionable age for the purpose of Parts I to VI of the Social Security (Contributions and Benefits) (Northern Ireland) Act 1992(1).

Period for giving effect to election

26. Where a person holds a position to which this Part applies immediately before an election at which he is not re-elected to that position, nothing in this Part shall be taken to require the union to prevent him from continuing to hold that position for such period (not exceeding six months) as may reasonably be required for effect to be given to the result of the election.

Overseas members

27.—(1) A trade union which has overseas members may choose whether or not to accord any of those members entitlement to vote at an election for a position to which this Part applies. 46

(2) An “overseas member” means a member of the union (other than a merchant seaman or offshore worker) who is outside Northern Ireland throughout the period during which votes may be cast.

For this purpose— “merchant seaman” means a person whose employment, or the greater part of it, is carried out on board sea-going ships; and “offshore worker” means a person in offshore employment within the meaning of section 287 of the Great Britain Act, other than one who is in such employment in an area where the law of Great Britain applies.

(3) Where the union chooses to accord an overseas member entitlement to vote, Article 17 (requirements as to voting) applies in relation to him; but nothing in Article 13 (candidates) or Article 16 (entitlement to vote) applies in relation to an overseas member or in relation to a vote cast by such a member.

Other supplementary provisions

28.—(1) For the purposes of this Part the date on which a contested election is held shall be taken, in the case of an election in which votes may be cast on more than one day, to the last of those days.

(2) Nothing in this Part affects the validity of anything done by a person holding a position to which this Part applies.