STATUTORY INSTRUMENTS

1992 No. 807

The Industrial Relations (Northern Ireland) Order 1992

PART VII

SECRET BALLOTS FOR TRADE UNION ELECTIONS

General requirements to be satisfied in relation to elections

48.—(1) Entitlement to vote at the election must be accorded equally to all members of the trade union in question other than those who belong to a class—

(a) which is, or which falls within, one or other of the classes mentioned in paragraph (2); and

(b) all the members of which are excluded by the rules of the union from voting at the election.

(2) The classes are—

(a) members who are not in employment;

(b) members who are in arrears in respect of any subscription or contribution due to the union;

(c) members who are apprentices, trainees or students or new members of the union.

(3) Where the conditions mentioned in paragraph (4) are satisfied, nothing in paragraph (1) shall be taken to prevent a trade union from restricting entitlement to vote at an election to members of the union who fall within—

(a) a class determined by reference to any trade or occupation;

(b) a class determined by reference to any geographical area;

(c) a class which is by virtue of the rules of the union treated as a separate section within the union; or

(d) a class determined by reference to any combination of the matters mentioned in sub-paragraphs (a), (b) and (c).

(4) The conditions are that—

(a) entitlement to vote is restricted by the rules of the union;

(b) no member of the union is denied entitlement to vote at all elections held for the purposes of this Part otherwise than by virtue of belonging to a class mentioned in paragraph (1).

(5) The method of voting must be by the marking of a voting paper by the person voting; and each voting paper—

(a) must clearly specify the address to which, and the date by which, the voting paper is to be returned;

(b) must be given one of a series of consecutive whole numbers every one of which is used in giving a different number in that series to each voting paper printed or otherwise produced for the purposes of the election; and

(c) must be marked with its number.

(6) Every person who is entitled to vote at the election must—

(a) be allowed to vote without interference from, or constraint imposed by, the union or any of its members, officials or employees; and

(b) so far as is reasonably practicable, be enabled to do so without incurring any direct cost to himself.

(7) So far as is reasonably practicable, every person who is entitled to vote at the election must—

(a) have sent to him, at his proper address and by post, a voting paper which either lists the candidates at the election or is accompanied by a separate list of those candidates; and

(b) be given a convenient opportunity to vote by post.

(8) Where, for the purpose of personal safety, a member of a trade union requests the union in writing to send a voting paper to him by some means other than by post then, in relation to that member, paragraph (7)(a) shall have effect with the substitution for the reference to post of a reference to that other means.

(9) The ballot must be conducted so as to secure that—

(a) so far as is reasonably practicable, those voting do so in secret;

(b) the result of the election is determined solely by counting the number of votes cast directly for each candidate at the election by those voting (nothing in this sub-paragraph being taken to prevent the system of voting used for the election being the single transferable vote); and

(c) the votes given at the election are fairly and accurately counted (any inaccuracy in counting being disregarded for the purposes of this sub-paragraph if it is accidental and on a scale which could not affect the result of the election). (10) No member of the trade union in question shall be unreasonably excluded from standing as a candidate at the election.

(11) No candidate at the election shall be required, whether directly or indirectly, to be a member of a political party.

(12) A member of a trade union shall not be taken to have been unreasonably excluded from standing as a candidate at the election if he has been excluded on the ground that he belongs to a class all the members of which are excluded by the rules of the union.

(13) For the purposes of paragraph (12), any rule which provides for a class to be determined by reference to those members which the union chooses to exclude from so standing shall be disregarded.

(14) A trade union which has overseas members may choose whether or not to accord any of those members entitlement to vote at the election; and nothing in the preceding provisions of this Article shall apply in relation to any overseas member or in relation to any vote cast by such a member except, in the case of paragraphs (5) to (9), where the union has chosen to accord that member entitlement to vote at the election.

(15) Nothing in this Article shall be taken to require a ballot to be held at an uncontested election.