
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**

Records and returns

Duty to keep accounting records

10.—(1) This Article applies to every trade union and every employers' association whose head or main office is situated in Northern Ireland except one which consists wholly or mainly of representatives of constituent or affiliated organisations (of the description referred to in Article 3(1)(b)(ii) or 4(1)(b)(ii)).

(2) Every trade union and every employers' association to which this Article applies shall—

- (a) cause to be kept proper accounting records with respect to its transactions and its assets and liabilities; and
- (b) establish and maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and payments.

(3) For the purposes of sub-paragraph (a) of paragraph (2) proper accounting records shall not be taken to be kept with respect to the matters mentioned in that sub-paragraph if there are not kept such records as are necessary to give a true and fair view of the state of the affairs of the trade union or employers' association and to explain its transactions.

(4) Where a trade union or employers' association consists of or includes branches or sections, then—

- (a) any duty falling upon the union or association in relation to a branch or section under this Article shall be treated as having been discharged to the extent to which a branch or section discharges that duty instead of the union or association; and
- (b) any duty falling upon a branch or section under this Article by reason of its being a trade union or employers' association shall be treated as having been discharged to the extent to which the union or association of which it is a branch or section discharges that duty instead of the branch or section.

Duties as to annual returns, auditors and members' superannuation schemes

11.—(1) This Article applies to every trade union and every employers' association to which Article 10 applies except a union or association which has been in existence for less than 12 months.

(2) Every trade union and every employers' association to which this Article applies shall send the Certification Officer as respects every calendar year a return relating to its affairs.

(3) Every trade union and every employers' association to which this Article applies shall appoint an auditor or auditors to audit the accounts contained in its annual return.

(4) Every trade union and every employers' association to which this Article applies shall at the request of any person, supply him with a copy of its rules and of its most recent annual return either free of charge or on payment of a reasonable charge.

(5) The Certification Officer shall at all reasonable hours keep available for public inspection, either free of charge or on payment of a reasonable charge, copies of all annual returns sent to him under this Article.

(6) The provisions of Part I of Schedule 1 shall have effect with respect to the annual return and to the qualifications, appointment, removal and functions of auditors of trade unions and employers' associations to which this Article applies.

(7) The provisions of Part II of Schedule 1 shall have effect with respect to members' superannuation schemes maintained or to be maintained by trade unions or employers' associations to which this Article applies.

(8) Where a trade union or employers' association consists of or includes branches or sections, then—

- (a) any duty falling upon the union or association in relation to a branch or section under this Article or Schedule 1 shall be treated as having been discharged to the extent to which a branch or section discharges that duty instead of the union or association; and
- (b) any duty falling upon a branch or section under this Article or Schedule 1 by reason of its being a trade union or employers' association shall be treated as having been discharged to the extent to which the union or association of which it is a branch or section discharges that duty instead of the branch or section.

(9) Where an employers' association to which this Article applies is a company within the meaning of the Companies Order—

- (a) paragraph (3) above and the provisions of paragraphs 6 to 15 of Schedule 1 do not apply; and
- (b) the rights and powers conferred, and duties imposed, by paragraphs 16 to 21 of that Schedule belong to the auditors of the company appointed under Chapter V of Part XII of that Order.

Returns, etc., by trade unions and employers' associations outside Northern Ireland

12.—(1) Any trade union or employers' association carrying on business in Northern Ireland and being a trade union or employers' association to which section 11 of the Trade Union and Labour Relations Act 1974(1) applies shall,—

- (a) within one month of the date on which it sends an annual return under subsection (2) of that section, send to the Certification Officer a copy, certified in such manner as the Certification Officer may require, of that annual return; and
- (b) before 1st June in every year, send to the Certification Officer a statement setting forth, in relation to the business carried on by the trade union or employers' association in Northern Ireland in the last preceding calendar year, such particulars of its receipts and payments, and such other information, as the Certification Officer may require.

(2) Any trade union or employers' association carrying on business in Northern Ireland but having its head or main office outside the United Kingdom shall, before 1st June in every year, send to the Certification Officer a statement setting forth, in relation to the business carried on in Northern

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Ireland in the last preceding calendar year, such particulars of its receipts and payments, and such other information, as the Certification Officer may require.

(3) Every trade union and employers' association carrying on business in Northern Ireland but not having its head or main office in Northern Ireland shall furnish to the Certification Officer, before 1st June in every year, the names and addresses of some one or more persons resident in Northern Ireland authorised to accept on its behalf service of process and any notices required to be served on it.

(4) Any process or notice required to be served on a trade union or employers' association to which paragraph (3) applies shall be sufficiently served if—

(a) it is addressed to any person whose name has been furnished to the Certification Officer under that paragraph and left at, or sent by post to, the address which has been so furnished; or

(b) where—

(i) any such trade union or employers' association makes default in furnishing to the Certification Officer the name and address of a person resident in Northern Ireland who is authorised to accept on its behalf service of process or notices; or

(ii) at any time all the persons whose names and addresses have been so furnished are dead, or have ceased to so reside, or refuse to accept service on behalf of the trade union or employers' association, or for any reason cannot be served,

it is left at, or sent by post to, any place where the business of the trade union or employers' association is carried on in Northern Ireland.

(5) The Certification Officer, if in any particular case he considers it appropriate to do so, may direct that the date before which a trade union or employers' association must comply with paragraph (1)(a) or (b), (2) or (3) shall be such other date (whether before or after that specified in paragraph (1)(a) or (b), (2) or (3)) as may be specified in the direction.

(6) The Certification Officer shall at all reasonable hours keep available for public inspection, either free of charge or on payment of a reasonable charge, copies of all documents sent to him under this Article.

(7) Paragraph (8) of Article 11 applies for the purposes of this Article as it applies for the purposes of Article 11.

Offences

13.—(1) If a trade union or an employers' association refuses or wilfully neglects to perform a duty imposed on it by or under any of the provisions of Article 10 or 11 or 12 or Schedule 1 the trade union or employers' association shall be guilty of an offence.

(2) Subject to paragraph (3), any offence committed by a trade union or an employers' association under paragraph (1) shall be deemed to have been also committed by—

(a) every officer of that trade union or employers' association who is bound by the rules of the union or association to discharge on its behalf the duty breach of which constitutes that offence; or

(b) if there is no such officer, every member of the principal executive committee of the union or association.

(3) In any proceedings brought against an officer or member by virtue of paragraph (2) in respect of any breach of duty, it shall be a defence for him to prove that he had reasonable cause to believe, and did believe, that some other person who was competent to discharge that duty was authorised to discharge it instead of him and had discharged it or would do so.

(4) A person who wilfully alters or causes to be altered a document which is required for the purposes of any of the provisions of Article 10 or 11 or 12 or Schedule 1, with intent to falsify the

document or to enable a trade union or employers' association to evade any of those provisions, shall be guilty of an offence.

(5) For every offence committed under this Article the trade union, employers' association or other person guilty of the offence shall be liable on summary conviction—

- (a) in the case of an offence under paragraph (1), to a fine not exceeding level 3 on the standard scale;
- (b) in the case of an offence under paragraph (4), to a fine not exceeding level 5 on the standard scale.