
STATUTORY INSTRUMENTS

1992 No. 807

The Industrial Relations (Northern Ireland) Order 1992

PART X

AMALGAMATIONS, ETC.

Conditions for amalgamations and transfers of engagements of trade unions

74.—(1) Subject to this Article—

- (a) two or more trade unions may amalgamate and become one trade union, with or without a division or dissolution of the funds of any one or more of those unions, but shall not do so unless, in the case of each of the amalgamating unions, a resolution which approves an instrument of amalgamation approved by the Certification Officer has been passed on a ballot held in a manner which satisfies the conditions specified in paragraph (2);
 - (b) a trade union may transfer its engagements to any other trade union which undertakes to fulfil those engagements, but shall not do so unless, in the case of the transferor union, a resolution which approves an instrument of transfer approved by the Certification Officer has been passed on a ballot held in a manner which satisfies the conditions specified in paragraph (2).
- (2) The conditions referred to in paragraph (1) are the following, that is—
- (a) every member of the union must be entitled to vote in the ballot;
 - (b) every member of the union must be allowed to vote without interference or constraint and must, so far as is reasonably possible, be given a fair opportunity of voting;
 - (c) the method of voting must involve the marking of a voting paper by the person voting;
 - (d) all reasonable steps must have been taken by the union to secure that, not less than 14 days before voting on the resolution begins, every member of the union is supplied with a notice in writing approved for the purpose by the Certification Officer.
- (3) The notice referred to in paragraph (2)(d)—
- (a) shall either set out in full the instrument of amalgamation or transfer to which the resolution relates, or give an account of it sufficient to enable those receiving the notice to form a reasonable judgment of the main effects of the proposed amalgamation or transfer; and
 - (b) if it does not set out the instrument in full, shall state where copies of the instrument may be inspected by those receiving the notice;

and both the instrument and the notice shall comply with the requirements of any regulations for the time being in force under this Part.

(4) Before a resolution to approve an instrument of amalgamation or transfer is voted on by the members of a trade union—

- (a) that instrument; and
- (b) the notice proposed to be supplied to members of the union in accordance with paragraph (2)(d),

shall be submitted to the Certification Officer, and the Certification Officer shall approve them respectively on being satisfied that they comply with the requirements of paragraph (3).

(5) An instrument of amalgamation or transfer shall not take effect before it has been registered by the Certification Officer under this Part, and shall not be so registered before the expiration of a period of six weeks beginning with the date on which an application for its registration is sent to the Certification Officer.

(6) No such amalgamation or transfer as is mentioned in paragraph (1) shall prejudice any right of any creditor of any trade union party thereto.

Manner of voting on, and majority required for, resolution

75.—(1) Article 74 shall apply in relation to every amalgamation or transfer of engagements notwithstanding anything in the rules of any of the trade unions concerned or in the following provisions of this Article.

(2) For the purposes of the passing of a resolution to approve an instrument of amalgamation or transfer, the principal executive committee of a trade union shall, unless the rules of that union expressly provide that this paragraph shall not apply in relation to that union, have power, notwithstanding anything in the rules of the union, to arrange for a ballot of the members of that union to be held in any manner which that committee thinks fit.

(3) Subject to paragraph (4), where, in the case of a trade union, a ballot is held (whether under arrangements made under paragraph (2) or under provisions in the rules of the union) on a resolution to approve an instrument of amalgamation or transfer, a simple majority of the votes recorded shall be sufficient to pass the resolution, notwithstanding anything in the rules of the union and, in particular, notwithstanding anything in those rules which, but for this paragraph, would require the resolution—

- (a) to be passed by a majority greater than a simple majority; or
- (b) to be voted on by not less than a specified proportion of the members of the union.

(4) The provisions of paragraph (3) shall not apply in the case of a union whose rules expressly provide that that paragraph shall not apply in relation to that union.

Power to alter rules of transferee union for purposes of transfer of engagements

76. Where a trade union proposes to transfer its engagements to another trade union, and an alteration of the rules of the transferee union is necessary to give effect to provisions in the instrument of transfer, the principal executive committee of the transferee union shall, unless the rules of that union expressly provide that this Article shall not apply in relation to that union, have power, notwithstanding anything in the rules of that union, by memorandum in writing to alter the rules of that union so far as is necessary to give effect to those provisions; but an alteration of the transferee union's rules under this Article shall not take effect unless or until the instrument of transfer takes effect.

Complaint to Certification Officer as regards passing of resolution

77.—(1) A member of a trade union which passes or purports to pass a resolution approving an instrument of amalgamation or transfer may complain to the Certification Officer on one or more of the following grounds, that is—

- (a) that the manner in which the ballot on the resolution was held did not satisfy the conditions specified in Article 74(2); or
- (b) where that ballot was held under arrangements made under Article 75(2), that the manner in which it was held was not in accordance with the arrangements; or

- (c) where that ballot was held under provisions in the rules of the union, that the manner in which it was held was not in accordance with those rules; or
- (d) that the votes recorded did not have the effect of passing the resolution.

(2) A complaint under this Article may be made at any time before, but shall not be made after, the expiration of a period of six weeks beginning with the date on which an application for registration of the instrument of amalgamation or transfer is sent to the Certification Officer; and where a complaint is made under this Article, the Certification Officer shall not register the instrument under this Part before the complaint is finally determined.

(3) Where a complaint is made under this Article, the Certification Officer may either dismiss it or, if after giving the complainant and the trade union an opportunity of being heard he finds the complaint to be justified, may either—

- (a) so declare, but make no order under this paragraph thereon; or
- (b) make an order specifying the steps which must be taken before he will entertain any application to register the instrument of amalgamation or transfer, as the case may be.

(4) It shall be the duty of the Certification Officer to furnish a statement, either written or oral, of the reasons for any decision which he gives on a complaint under this Article.

(5) The Certification Officer may from time to time by order vary any order made under paragraph (3), and after making an order under that paragraph in relation to an instrument of amalgamation or transfer shall not entertain any application to register that instrument unless he is satisfied that the steps specified in the order (or, where the order has been varied, in the order as varied) have been taken.

(6) Subject to paragraph (7), the validity of a resolution approving an instrument of amalgamation or transfer shall not be questioned in any legal proceedings whatsoever (except proceedings before the Certification Officer under this Article or any proceedings arising out of such proceedings) on any ground on which a complaint could be, or could have been, made to the Certification Officer under this Article.

(7) An appeal shall lie, in accordance with Article 70(4), at the instance of the complainant or the trade union, to the Court of Appeal on any question of law arising in any proceedings before, or arising from any decision of, the Certification Officer under this Article.

(8) The Arbitration Act (Northern Ireland) 1937(1) does not apply to proceedings on a complaint under this Article.

(9) For the purposes of this Article a complaint which is withdrawn shall be deemed to be finally determined at the time when it is withdrawn.

Disposal of property on amalgamation or transfer

78.—(1) Subject to this Article, where an instrument of amalgamation or transfer takes effect, the property held—

- (a) for the benefit of any of the amalgamating unions or for the benefit of a branch of any of those unions, by the trustees of the union or branch; or
- (b) for the benefit of the transferor trade union or for the benefit of a branch of the transferor trade union, by the trustees of the union or branch,

shall without any conveyance or assignment vest, on the instrument taking effect, or on the appointment of the appropriate trustees, whichever is the later, in the appropriate trustees.

- (2) Paragraph (1) shall not apply—

- (a) to property excepted from the operation of this Article by the instrument of amalgamation or transfer; or
 - (b) to stocks and securities in the public funds of Northern Ireland or the United Kingdom.
- (3) In this Article “the appropriate trustees” means—
- (a) in the case of any property to be held for the benefit of a branch of the amalgamated union or for the benefit of a branch of the transferee union, the trustees of that branch, unless the rules of the amalgamated or transferee union provide that the property to be so held shall be held by the trustees of the union; and
 - (b) in any other case, the trustees of the amalgamated or transferee union.
- (4) If, in the case of an amalgamation of two or more trade unions each qualified under Article 57 to operate such a fund as is mentioned in paragraph (2)(a) of that Article, the rules of the amalgamated union in force immediately after the amalgamation include such rules as are required by that Article, that union is to be treated for the purposes of that Article as having immediately after the amalgamation passed such a resolution as is mentioned in paragraph (1) of that Article, with power to rescind it under paragraph (8) thereof.

Change of name of trade union

79.—(1) Subject to this Article, a trade union may change its name by any method of doing so expressly provided for by its rules or, if its rules do not expressly provide for a method of doing so, by adopting in accordance with its rules an alteration of the provision in them which gives the union its name.

(2) If the name of a trade union is for the time being entered in the list of trade unions under Article 5, a change of its name shall not take effect until approved by the Certification Officer under this Part; and the Certification Officer shall not approve a change of name if it appears to him that the proposed new name is the same as one entered in either of the lists under that Article as the name of another trade union or employers' association or is a name so nearly resembling such a name as to be likely to deceive the public.

(3) Where a trade union changes its name, the change of name shall not affect any right or obligation of the union or of any of its members, and any pending legal proceedings may be continued by or against the union or the trustees of the union notwithstanding its change of name.

Regulations

- 80.**—(1) The Department may make regulations as respects—
- (a) applications to the Certification Officer under this Part;
 - (b) the registration under this Part of any document or matter;
 - (c) the inspection of documents kept by the Certification Officer under this Part;
 - (d) the charging of fees in respect of such matters, and of such amounts, as may, with the approval of the Department of Finance and Personnel, be prescribed by the regulations;
- and generally for carrying this Part into effect.
- (2) Regulations under this Article may in particular—
- (a) require any application for the registration of an instrument of amalgamation or transfer or a change of name to be accompanied by such statutory declarations or other documents as may be specified in the regulations;
 - (b) make provision as to the form or content of any document required by this Part or by the regulations to be sent or submitted to the Certification Officer and the manner in which any such document is to be signed or authenticated;

- (c) authorise the Certification Officer to require notice to be given or published in such manner as he may direct of the fact that an application for registration of an instrument of amalgamation or transfer has been or is to be made to him.

Interpretation of Part X

81.—(1) In this Part—

“the amalgamating unions” and “the amalgamated union”, in relation to a proposed amalgamation, mean respectively the trade unions proposing to amalgamate and the trade union which is to result from the proposed amalgamation;

“Great Britain union” has the meaning assigned to it by paragraph (4);

“the transferor trade union” and “the transferee trade union”, in relation to a proposed transfer of engagements, mean respectively the trade union proposing to transfer its engagements and the trade union proposing to accept them.

(2) Subject to paragraph (3), this Part applies only to a trade union which has its head or main office in Northern Ireland.

(3) This Part shall have effect in relation to amalgamations and transfers of engagements to which both a trade union having its head or main office in Northern Ireland and a Great Britain union are parties subject to the modifications specified in Schedule 3.

(4) In this Part “Great Britain union” means a trade union within the meaning of the Trade Union and Labour Relations Act 1974(2), being either—

- (a) a union whose name is for the time being entered in the list of trade unions under section 8 of that Act; or
- (b) a union whose name is not so entered, but whose head or main office is situated in England, Wales or Scotland.

(5) This Part applies with the necessary modifications to an unincorporated employers' association as it applies to a trade union.