STATUTORY INSTRUMENTS

1995 No. 1980

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

PART II

TRADE UNION ADMINISTRATION

Register of members' names and addresses

Duty to maintain register of members' names and addresses

3.—(1) A trade union shall compile and maintain a register of the names and addresses of its members, and shall secure, so far as is reasonably practicable, that the entries in the register are accurate and are kept up-to-date.

(2) The register may be kept by means of a computer.

(3) A trade union shall—

(a) allow any member, upon reasonable notice, to ascertain from the register, free of charge and at any reasonable time, whether there is an entry on it relating to him; and

(b) if requested to do so by any member, supply him as soon as reasonably practicable, either free of charge or on payment of a reasonable fee, with a copy of any entry on the register relating to him.

(4) Any duty falling upon a branch or section under this Article by reason of its being a trade union shall be treated as having been discharged to the extent to which the union of which it is a branch or section has discharged the duty instead.

(5) For the purposes of this Article a member's address means either his home address or another address which he has requested the union in writing to treat as his postal address.

(6) The remedy for failure to comply with the requirements of this Article is by way of application under Article 5 (to the Certification Officer) or Article 6 (to the High Court). The making of an application to the Certification Officer does not prevent the applicant, or any other person, from making an application to the High Court in respect of the same matter.

(7) Subject to paragraph (8), this Article and Articles 4 to 6 apply to every trade union which has its head or main office in Northern Ireland.

(8) This Article and Articles 4 to 6 do not apply to a trade union—

(a) which falls within Article 3(1)(b) of the 1992 Order (unions consisting wholly or mainly of, or of representatives of, constituent or affiliated organisations), if it has no individual members other than representatives of constituent or affiliated organisations; or

(b) 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.

Securing confidentiality of register during ballots

4.—(1) This Article applies in relation to a ballot of the members of a trade union on—

(a) an election under Part III for a position to which that Part applies,

(b) a political resolution under Part V, and

(c) a resolution to approve an instrument of amalgamation or transfer under Part VI.

(2) Where this Article applies in relation to a ballot the trade union shall impose the duty of confidentiality in relation to the register of members' names and addresses on the scrutineer appointed by the union for the purposes of the ballot and on any person appointed by the union as the independent person for the purposes of the ballot.

(3) The duty of confidentiality in relation to the register of members' names and addresses is, when imposed on a scrutineer or on an independent person, a duty—

(a) not to disclose any name or address in the register except in permitted circumstances; and

(b) to take all reasonable steps to secure that there is no disclosure of any such name or address by any other person except in permitted circumstances;

and any reference in this Order to “the duty of confidentiality” is a reference to the duty prescribed in this paragraph.

(4) The circumstances in which disclosure of a member’s name and address is permitted are—

(a) where the member consents;

(b) where it is requested by the Certification Officer for the purposes of the discharge of any of his functions or it is required for the purposes of the discharge of any of the functions of an inspector appointed by him;

(c) where it is required for the purposes of the discharge of any of the functions of the scrutineer or independent person, as the case may be, under the terms of his appointment;

(d) where it is required for the purposes of the investigation of crime or of criminal proceedings.

(5) Any provision of this Order which incorporates the duty of confidentiality as respects the register into the appointment of a scrutineer or an independent person has the effect of imposing that duty on the scrutineer or independent person as a duty owed by him to the trade union.

(6) The remedy for failure to comply with the requirements of this Article is by way of application under Article 5 (to the Certification Officer) or Article 6 (to the High Court).

The making of an application to the Certification Officer does not prevent the applicant, or any other person, from making an application to the High Court in respect of the same matter.

Remedy for failure: application to Certification Officer

5.—(1) A member of a trade union who claims that the union has failed to comply with any of the requirements of Article 3 or 4 (duties with respect to register of members' names and addresses) may apply to the Certification Officer for a declaration to that effect.

(2) On an application being made to him, the Certification Officer shall—

(a) make such enquiries as he thinks fit, and

(b) where he considers it appropriate, give the applicant and the trade union an opportunity to be heard,

and may make or refuse the declaration asked for.

(3) If he makes a declaration he shall specify in it the provisions with which the trade union has failed to comply.

(4) Where he makes a declaration and is satisfied that steps have been taken by the union with a view to remedying the declared failure, or securing that a failure of the same or any similar kind does not occur in future, or that the union has agreed to take such steps, he shall specify those steps in the declaration.

(5) Whether he makes or refuses a declaration, he shall give reasons for his decision in writing; and the reasons may be accompanied by written observations on any matter arising from, or connected with, the proceedings.

(6) In exercising his functions under this Article the Certification Officer shall ensure that, so far as is reasonably practicable, an application made to him is determined within six months of being made.

(7) Where he requests a person to furnish information to him in connection with enquiries made by him under this Article, he shall specify the date by which that information is to be furnished and, unless he considers that it would be inappropriate to do so, shall proceed with his determination of the application notwithstanding that the information has not been furnished to him by the specified date.

(8) The Certification Officer shall not entertain an application for a declaration as respects an alleged failure to comply with the requirements of Article 4 in relation to a ballot to which that Article applies unless the application is made before the end of the period of one year beginning with the last day on which votes could be cast in the ballot.

Remedy for failure: application to High Court

6.—(1) A member of a trade union who claims that the union has failed to comply with any of the requirements of Article 3 or 4 (duties with respect to register of members' names and addresses) may apply to the High Court for a declaration to that effect.

(2) If an application in respect of the same matter has been made to the Certification Officer, the High Court shall have due regard to any declaration, reasons or observations of his which are brought to its notice.

(3) If the High Court makes a declaration it shall specify in it the provisions with which the trade union has failed to comply.

(4) Where the High Court makes a declaration it shall also, unless it considers that to do so would be inappropriate, make an enforcement order, that is, an order imposing on the union one or both of the following requirements—

(a) to take such steps to remedy the declared failure, within such period, as may be specified in the order;

(b) to abstain from such acts as may be so specified with a view to securing that a failure of the same or a similar kind does not occur in future.

(5) Where an enforcement order has been made, any person who is a member of the union and was a member at the time it was made is entitled to enforce obedience to the order as if he had made the application on which the order was made.

(6) Without prejudice to any other power of the High Court, the court may on an application under this Article grant such interlocutory relief as it considers appropriate.

(7) The High Court shall not entertain an application for a declaration as respects an alleged failure to comply with the requirements of Article 4 in relation to a ballot to which that Article applies unless the application is made before the end of the period of one year beginning with the last day on which votes could be cast in the ballot.