



# Trade Union Reform and Employment Rights Act 1993

## 1993 CHAPTER 19

### PART I

#### TRADE UNIONS ETC.

##### *Union elections and ballots*

## 2 Counting of election votes etc. by independent person

(1) After section 51 of the 1992 Act there shall be inserted—

### **“51A Counting of votes etc. by independent person**

- (1) The trade union shall ensure that—
  - (a) the storage and distribution of the voting papers for the purposes of the election, and
  - (b) the counting of the votes cast in the election,are undertaken by one or more independent persons appointed by the union.
- (2) A person is an independent person in relation to an election if—
  - (a) he is the scrutineer, or
  - (b) he is a person other than the scrutineer and the trade union has no grounds for believing either that he will carry out any functions conferred on him in relation to the election otherwise than competently or that his independence in relation to the union, or in relation to the election, might reasonably be called into question.
- (3) An appointment under this section shall require the person appointed to carry out his functions so as to minimise the risk of any contravention of requirements imposed by or under any enactment or the occurrence of any unfairness or malpractice.

- (4) The duty of confidentiality as respects the register is incorporated in an appointment under this section.
  - (5) Where the person appointed to undertake the counting of votes is not the scrutineer, his appointment shall require him to send the voting papers back to the scrutineer as soon as reasonably practicable after the counting has been completed.
  - (6) The trade union—
    - (a) shall ensure that nothing in the terms of an appointment under this section is such as to make it reasonable for any person to call into question the independence of the person appointed in relation to the union,
    - (b) shall ensure that a person appointed under this section duly carries out his functions and that there is no interference with his carrying out of those functions which would make it reasonable for any person to call into question the independence of the person appointed in relation to the union, and
    - (c) shall comply with all reasonable requests made by a person appointed under this section for the purposes of, or in connection with, the carrying out of his functions.”.
- (2) In section 52 of the 1992 Act (scrutineer’s report on election)—
- (a) in subsection (1), after paragraph (d) there shall be inserted “, and
    - (e) the name of the person (or of each of the persons) appointed under section 51A or, if no person was so appointed, that fact.”,
  - (b) in subsection (2)(b), after the word “made” there shall be inserted “(whether by him or any other person)”, and
  - (c) after subsection (2A) (which is inserted by section 1 above) there shall be inserted—
    - “(2B) Where one or more persons other than the scrutineer are appointed under section 51A, the statement included in the scrutineer’s report in accordance with subsection (2)(b) shall also indicate—
      - (a) whether he is satisfied with the performance of the person, or each of the persons, so appointed, and
      - (b) if he is not satisfied with the performance of the person, or any of them, particulars of his reasons for not being so satisfied.”.