
STATUTORY INSTRUMENTS

1988 No. 2117

TRADE UNIONS

**The Trade Union Ballots and Elections
(Independent Scrutineer Qualifications) Order 1988**

Made - - - - *5th December 1988*
Laid before Parliament *14th December 1988*
Coming into force - - *1st February 1989*

The Secretary of State, in exercise of the powers conferred on him by section 15(3) of the Employment Act 1988(1), and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Trade Union Ballots and Elections (Independent Scrutineer Qualifications) Order 1988 and shall come into force on 1st February 1989.

(2) In this Order, “the 1988 Act” means the Employment Act 1988.

Qualifications

2. A person satisfies the conditions specified for the purposes of paragraph (a) of section 15(3) of the 1988 Act in relation to a ballot or election if he satisfies the condition specified in Article 3, 4, or 6 below.

3. An individual satisfies this condition if—

- (a) he has in force a practising certificate issued by the Law Society of England and Wales or the Law Society of Scotland; and
- (b) he is not disqualified from satisfying this condition by Article 7 below.

4. An individual satisfies this condition if—

- (a) he is a member of one or more of the following bodies:
 - (i) the Institute of Chartered Accountants in England and Wales;
 - (ii) the Institute of Chartered Accountants of Scotland;
 - (iii) the Chartered Association of Certified Accountants; and

- (iv) the Institute of Chartered Accountants in Ireland;
 - (b) he is accepted by any such body of which he is a member as being qualified to be an auditor; and
 - (c) he is not disqualified from satisfying this condition by Article 7 below.
5. An individual who satisfies that part of the condition specified in Article 3 above contained in paragraph (a) of that Article or those parts of the condition specified in Article 4 above contained in paragraphs (a) and (b) of that Article is hereinafter referred to as “an individual potentially qualified to be a scrutineer”.
6. Subject to Article 8 below, a partnership satisfies this condition if every member of the partnership is an individual potentially qualified to be a scrutineer.
7. An individual potentially qualified to be a scrutineer does not satisfy the condition specified in Article 3 or, as the case may be, 4 above if he or any present partner of his has—
- (a) during the preceding 12 months, been a member, officer or employee of the trade union proposing to hold the ballot or election; or
 - (b) in acting at any time as a scrutineer for any trade union, knowingly permitted any member, officer or employee of the trade union to assist him in carrying out any of the functions referred to in section 15(4) of the 1988 Act.
8. A partnership does not satisfy the condition specified in Article 6 above if any member of the partnership is disqualified from being a scrutineer by Article 7 above.

Persons specified by name

9. The following persons are specified for the purposes of paragraph (a) of section 15(3) of the 1988 Act—
- (a) The Electoral Reform Society of Great Britain and Ireland Limited;
 - (b) The Industrial Society; and
 - (c) Unity Security Balloting Services Limited.

Signed by order of the Secretary of State.

5th December 1988

John Cope
Minister of State
Department of Employment

EXPLANATORY NOTE

(This note is not part of the Order)

Section 15 of the Employment Act 1988 requires certain ballots and elections held by trade unions to be supervised by a qualified independent person (known as a “scrutineer”) appointed by the trade union. This Order specifies the conditions which a person must meet to be eligible for appointment as a scrutineer and specifies three bodies by name as being eligible for appointment as scrutineers.

A person who meets the specified conditions or a body specified may be appointed as scrutineer of a ballot or election provided that the trade union has no grounds for believing—

- (a) that the person or body will carry out his functions less than competently; or
- (b) that the independence of the person or body in relation to the union, or the ballot or election, is open to question.

The Order comes into force on 1st February 1989, the same date as that on which section 15 comes into force.