
STATUTORY INSTRUMENTS

1993 No. 1909

TRADE UNIONS

**The Trade Union Ballots and Elections
(Independent Scrutineer Qualifications) Order 1993**

<i>Made</i>	- - - -	<i>27th July 1993</i>
<i>Laid before Parliament</i>		<i>5th August 1993</i>
<i>Coming into force</i>	- -	<i>30th August 1993</i>

The Secretary of State, in exercise of the powers conferred on him by sections 49(2), 75(2), 100A(2) and 226B(2) of the Trade Union and Labour Relations (Consolidation) Act 1992⁽¹⁾ and 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 1993 and shall come into force on 30 August 1993.

(2) In this Order, unless the context otherwise requires—

“an individual potentially qualified to be a scrutineer” means an individual who satisfies the requirement specified in either paragraph (a) of article 3 or paragraph (a) of article 4;

“the 1992 Act” means the Trade Union and Labour Relations (Consolidation) Act 1992;

“the relevant provisions” means the provisions of sections 49(2)(a), 75(2)(a), 100A(2)(a) and 226B(2)(a) of the 1992 Act.

Qualifications

2. An individual satisfies the condition specified for the purposes of the relevant provisions in relation to a ballot or election, (as the case may be), if he satisfies the condition specified in article 3 or 4.

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

(1) 1992 c. 52; sections 49 and 75 were amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19) (the 1993 Act), section 1 and Schedule 1, paragraph 2 respectively; sections 100A and 226B were inserted by the 1993 Act, sections 4 and 20(1) respectively.

- (b) he is not disqualified from satisfying this condition by virtue of article 5.
- 4. An individual satisfies this condition if—
 - (a) he is qualified to be an auditor of a trade union by virtue of section 34(1) of the 1992 Act; and
 - (b) he is not disqualified from satisfying this condition by virtue of article 5.
- 5.—(1) An individual potentially qualified to be a scrutineer does not satisfy the condition specified in article 3 or 4 if he or any existing partner of his has—
 - (a) during the preceding 12 months, been a member, an officer or an 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 sections 49(3), 75(3), 100A(3) and 226B(1) of the 1992 Act.
- (2) References in this article to an officer shall be construed as not including an auditor.
- 6. A partnership satisfies the condition specified for the purposes of the relevant provisions in relation to a ballot or election, (as the case may be), if—
 - (a) every member of the partnership is an individual potentially qualified to be a scrutineer; and
 - (b) no member of the partnership is disqualified from being a scrutineer by virtue of article 5.

Persons specified by name

- 7. The following persons are specified for the purposes of the relevant provisions—
 - Electoral Reform Ballot Services Limited;
 - The Industrial Society; and
 - Unity Security Balloting Services Limited.
- 8. The Trade Union Ballots and Elections (Independent Scrutineer Qualifications) Order 1988(2) is hereby revoked.

Signed by order of the Secretary of State

27th July 1993.

Michael Forsyth
Minister of State,
Department of Employment

EXPLANATORY NOTE

(this note is not part of the Order)

Sections 49, 75, 100A and 226B of the Trade Union and Labour Relations (Consolidation) Act 1992 (the 1992 Act) (as amended by the Trade Union Reform and Employment Rights Act 1993 (the 1993 Act)) require ballots and elections, held by a trade union, relating to elections for the members of the executive committee and specified officers, political funds, mergers or industrial action, to be supervised by a qualified independent person (known as a “scrutineer”) appointed by the trade union. This Order specifies for the purposes of those provisions above the conditions which a person must meet to be eligible for appointment as a scrutineer and also specifies three bodies by name.

A person who meets the specified conditions or a body specified by name may be appointed as a 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.

It comes into force on 30 August 1993, the same day as the relevant amendments to the 1992 Act contained in the 1993 Act, come into force.

This Order also revokes the Trade Union Ballots and Elections (Independent Scrutineer Qualifications) Order 1988.