
STATUTORY INSTRUMENTS

1992 No. 807

The Industrial Relations (Northern Ireland) Order 1992

PART VII

SECRET BALLOTS FOR TRADE UNION ELECTIONS

Remedy for failure to comply with this Part

52.—(1) Any person who claims that a trade union has failed to comply with one or more of the provisions of this Part may apply to the Certification Officer or to the High Court for a declaration to that effect if—

- (a) in a case where the application relates to an election which has been held, he was a member of the trade union at the date when the election was held and is such a member at the time when the application is made; and
- (b) in any other case, he is a member of the union at the time when the application is made.

(2) An application relating to an election which has been held must be made before the expiry of the period of one year beginning with the date on which the result of the election is announced by the trade union.

(3) On an application under this Article the Certification Officer or, as the case may be, the High Court may make or refuse to make the declaration asked for.

(4) A declaration made under this Article shall specify the provisions with which the trade union has failed to comply.

(5) Where the High Court makes such a declaration it shall also make an enforcement order unless it considers that to do so would be inappropriate.

(6) In this Article “enforcement order” means an order which imposes on the trade union one or more of the requirements mentioned in paragraph (7).

(7) The requirements are—

- (a) to secure the holding of such an election as may be specified in the order;
- (b) to take such other steps to remedy the declared failure as may be so specified;
- (c) to abstain from such acts as may be so specified with a view to securing that a failure of the same, or any similar, kind as that of the declared failure does not arise on the part of the trade union.

(8) In making an enforcement order which requires the union to hold a fresh election, in any case where the application relates to an election which has been held, the High Court shall (unless it considers that it would be inappropriate to do so in the particular circumstances of the case) require the fresh election to be conducted in accordance with this Part and with such other provisions as may be made by the order.

(9) An enforcement order under this Article which imposes requirements by virtue of subparagraph (a) or (b) of paragraph (7) shall be so expressed as to require the trade union to comply with those requirements before the expiry of such period as the court considers appropriate.

(10) Without prejudice to any power conferred on the High Court otherwise than by virtue of this Article, the court shall have power, on an application under this Article, to grant any such interlocutory relief as it considers appropriate.

(11) The remedy of any person for a failure of a trade union to comply with one or more of the provisions of this Part shall be by way of application under this Article and not otherwise.

(12) Where an enforcement order has been made, any person who satisfies the requirements of paragraph (13) shall be entitled to enforce obedience to the order as if he had made the application in pursuance of which the order was made.

(13) The requirements are that—

- (a) he is a member of the union at the time when the proceedings to enforce obedience to the order are begun; and
- (b) he was such a member at the time when the order was made.

(14) The requirements of paragraph (1) or (13) that a person making an application under this Article in relation to an election or seeking to enforce obedience to an enforcement order in relation to an election must be or have been a member of the union at a particular time shall not apply where the person who makes the application or seeks to enforce obedience to the order is or was a candidate in the election.