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STATUTORY INSTRUMENTS

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**1992 No. 807**

**The Industrial Relations (Northern Ireland) Order 1992**

**PART XII**

**MISCELLANEOUS AND SUPPLEMENTARY**

*Ballots*

**Payments in respect of secret ballots**

**102.**—(1) The Department may by regulations make a scheme (in this Article referred to as “the scheme”) providing for payments by the Certification Officer towards expenditure incurred by independent trade unions in respect of such ballots to which this Article applies as may be prescribed by the scheme.

(2) This Article applies to a ballot if the purpose of the question to be voted upon (or if there is more than one such question, the purpose of any of them) falls within the purposes mentioned in paragraph (3).

(3) The purposes referred to in paragraph (2) are—

- (a) obtaining a decision or ascertaining the views of members of a trade union as to the calling or ending of a strike or other industrial action;
- (b) carrying out an election provided for by the rules of a trade union or in relation to which Article 48 is required to be satisfied;
- (c) electing a worker who is a member of a trade union to be a representative of other members also employed by his employer;
- (d) amending the rules of a trade union;
- (e) obtaining a decision on a resolution for the purposes of Article 57;
- (f) obtaining a decision in accordance with Part X on a resolution to approve an instrument of amalgamation or transfer;
- (g) obtaining a decision or ascertaining the views of members of a trade union as to the acceptance or rejection of a proposal made by an employer in relation to the contractual terms and conditions upon which or the other incidents of a relationship whereby a person works or provides services for the employer;

and such other purposes as the Department may specify by order made subject to affirmative resolution.

(4) Notwithstanding anything in paragraphs (2) and (3), this Article does not apply to any ballot held by a trade union, if—

- (a) the purpose of any question to be voted upon is the obtaining of a decision of the kind mentioned in sub-paragraph (e) of paragraph (3); and
- (b) the ballot is held at a time when there is no resolution in force in respect of that union under Article 57.

(5) The scheme may include provision for payments to be made towards expenditure incurred by an independent trade union in respect of arrangements to hold a ballot which is not proceeded with but which, if it had been held, would have been a ballot to which this Article applies.

(6) The circumstances in which and the conditions subject to which payments may be made under the scheme, and the amounts of the payments, shall be such as may be prescribed by or determined in accordance with the scheme; and the scheme shall include provision for restricting the cases in which payments are made to cases in which the ballot is so conducted as to secure, so far as reasonably practicable, that those voting do so in secret.

(7) The Department shall pay to the Certification Officer such sums as he may require for making payments under the scheme.

### **Secret ballots on employer's premises**

**103.**—(1) Subject to paragraph (3), where an independent trade union proposes that a relevant ballot be held and requests an employer to permit premises of his to be used for the purpose of giving workers employed by him who are members of the union a convenient opportunity of voting, the employer shall, so far as reasonably practicable, comply with the request unless the ballot is one in which every person who is entitled to vote must be given a convenient opportunity to vote by post.

(2) A ballot is a relevant ballot for the purposes of this Article if—

- (a) as respects the purpose of the question (or one of the questions) to be voted upon, the ballot satisfies the requirements of a scheme under Article 102; and
- (b) the proposals for the conduct of the ballot are such as to secure, so far as reasonably practicable, that those voting do so in secret.

(3) Paragraph (1) shall not apply where, at the time the request is made,—

- (a) the union is not recognised by the employer to any extent for the purpose of collective bargaining; or
- (b) the number of workers employed by the employer, added to the number employed by any associated employer, does not exceed twenty.

(4) A trade union may present a complaint to an industrial tribunal that it has made a request in accordance with paragraph (1) and that it was reasonably practicable for the employer to comply with it, but that he has failed to do so.

(5) An industrial tribunal shall not entertain a complaint under this Article unless it is presented to the tribunal before the end of the period of three months beginning with the date of the failure, or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of three months.

(6) Where a tribunal finds that a complaint under this Article is well-founded, the tribunal shall make a declaration to that effect, and may make an award of compensation to be paid by the employer to the union which shall be of such amount as the tribunal considers just and equitable in all the circumstances having regard to the employer's default in failing to comply with the request and to any expenses incurred by the union in consequence of the failure.

(7) The remedy of a trade union for a failure to comply with a request made in accordance with paragraph (1) shall be by way of a complaint under this Article and not otherwise.

(8) In this Article "post" has the same meaning as in Part VI.