

**Northern Ireland Certification Office
For Trade Unions and Employers' Associations**

**GUIDANCE FOR TRADE UNIONS
AND EMPLOYERS' ASSOCIATIONS
WISHING TO ESTABLISH A
POLITICAL FUND**

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POLITICAL FUNDS

A Note on Procedure

INTRODUCTION

1. This guidance note explains the procedure to be followed by a trade union or an unincorporated employers' association which wishes to establish a political fund. It contains Model Political Fund Ballot Rules and Model Political Fund Rules, along with a Model Resolution which can be used for adopting such rules.

2. The provisions of the legislation on political funds apply to unincorporated employers' associations as well as to trade unions. However for the sake of simplicity this guide refers throughout to trade unions only.

3. The statutory provisions

Under the provisions of the Trade Union and Labour Relations (NI) Order 1995 (as amended) (the 1995 Order), a trade union may not apply any part of its funds in the furtherance of the political objects set out in the Order unless it has established a political fund. This is so whether or not the trade union is listed by the Certification Officer under Article 5 of the Industrial Relations (Northern Ireland) Order 1992. The political objects in question are quoted in full in Rule 1 of the Model Political Fund Rules (see page 6/7 below).

4. A union wishing to establish a political fund must pass a resolution approving the furtherance of the political objects as an object of the union, by holding a ballot of all its members. The ballot must be held under rules which have been approved by the Certification Officer, and the Certification Officer may only approve those ballot rules if he/she is satisfied that they meet all the various requirements of the 1995 Order. A simple majority of the members voting will be sufficient to pass the resolution which will then remain in force - unless rescinded - for ten years, after which a "review ballot" is required. A separate guidance booklet for review ballots is available from the Certification Office.

5. The 1995 Order requires that the union adopt rules providing that all expenditure on the political objects is to be made out of a separately constituted political fund and that no member is required to contribute to that political fund unless he/she has given the union written notice of his/her willingness to do so. (A form which members may use to give such notice is available on request from the Certification Office). These political fund rules must conform to the requirements of the 1995 Order and must be approved by the Certification Officer.

6. Application to Great Britain unions with Northern Ireland members

Great Britain law differs from Northern Ireland law in the matter of contributions by members to a political fund. In Great Britain members may have contributions levied on them unless they claim exemption, whereas in Northern Ireland, as just indicated, no contribution may be levied from a member unless he/she has authorised it in writing. Hence a Great Britain union may not levy a political fund contribution from a member resident in Northern Ireland unless it has received the member's written authorisation. The political fund rules of Great Britain unions with members in Northern Ireland must include this requirement. Political fund model rules for Northern Ireland members of Great Britain trade unions have been produced by the Certification Officer, from whom Great Britain unions with Northern Ireland members should seek advice at an early stage. Contact details are on the title page of this guidance.

7. Outline of procedure for establishing a political fund

There are several stages in the procedure for establishing a political fund.

Stage 1

The union sends to the Certification Officer two copies each of:

- (i) the proposed ballot rules¹; and

¹ Alternative versions of Model Ballot Rules are given in the annexes to this booklet. Annex A: Where the roles of Independent Person and Scrutineer are to be carried out separately. Annex B: Where the Scrutineer is required by the union to act as the Independent Person.

- (ii) the proposed political fund rules.

Stage 2

The Certification Officer gives informal clearance to both sets of rules if he/she is satisfied that they cover and comply with all the various requirements of the 1995 Order. He/She is not able to give formal approval until the rules have been adopted.

Stage 3

A resolution adopting the ballot rules given informal clearance by the Certification Officer is passed. It is convenient if the political fund rules are conditionally adopted at the same time. This can be achieved by passing a "combined resolution" which has three terms:-

- (i) that a ballot be taken to determine whether the furtherance of the political objects specified in the 1995 Order shall become an object of the union;
- (ii) that the ballot rules be adopted; and
- (iii) that, if a majority of the members voting in that ballot vote in favour, the political fund rules be adopted.

A model form for this combined resolution is reproduced at page 6.

For both sets of rules the model resolution provides that, though adopted by the union into its rule book, the rules are not to come into force until they have been approved by the Certification Officer. The reason for this is that formal approval under the 1995 Order must come after the rules have been adopted by the union.

The union may pass the combined resolution in one of three ways:

- (i) in the manner provided by the union's own rules for alteration of rules; or
- (ii) by a majority of the members of the union voting for the purpose; or
- (iii) by a majority of delegates of the union voting at a meeting called for the purpose.

Methods (ii) and (iii) are authorised by Article 66 of the 1995 Order.

Stage 4

The union applies to the Certification Officer for formal approval of the **ballot** rules (form PF(NI)4).

Stage 5

The Certification Officer formally approves the **ballot** rules.

Stage 6

The ballot to approve the establishment of a political fund and the rules of the fund is held in accordance with the approved ballot rules.

Stage 7

The union sends the Scrutineer's report of the result of the ballot to the Certification Officer. If the members have voted in favour of establishing a political fund, the rules of the fund may be submitted for formal approval at the same time. Two copies of the political fund rules given informal clearance should be submitted to the Certification Officer with the completed form PF(NI)4. Both copies should carry the original signatures of the three union officials who authenticate the rules.

Stage 8

The Certification Officer gives formal approval to the political fund rules and one copy of the approved rules is returned to the union with the Certification Officer's certificate of approval affixed to it.

Stage 9

The union informs its members that the political resolution has been passed and that any member who wishes to contribute to the political fund should notify the union of this in writing.

**MODEL RESOLUTION
FOR ADOPTION OF POLITICAL FUND
BALLOT RULES AND POLITICAL FUND RULES**

..... (Name of Union)

It is hereby resolved [, pursuant to Article 66 of the Trade Union and Labour Relations (NI) Order 1995 (as amended)]¹

- (a) That the rules of [the union] be altered by the addition of the rules, now before the meeting², for a ballot on a resolution approving the furtherance of political objects within the meaning of the Trade Union and Labour Relations (NI) Order 1995 as an object of the union;
- (b) That, subject to the approval of those rules by the Certification Officer, a ballot be taken in accordance with them; and
- (c) That, if the resolution is passed by a majority of the members of the union voting in that ballot, the rules of the union be further altered by adding the rules for the political fund of the union now before the meeting², and that application then be made for the approval of such rules by the Certification Officer under the Trade Union and Labour Relations (NI) Order 1995 (as amended).

1. This reference to Article 66 of the 1995 Order is advisable if the union proposes to use one of the procedures authorised by Article 66 and not the procedure laid down by its rules as to alteration of rules; otherwise it is not required.

2. If the resolution is not being adopted at a meeting of members or delegates delete "now before the meeting" and substitute other appropriate wording to identify the rules, eg. (if a notice has been circulated) "attached to the notice [to members or delegates]".

MODEL RULES FOR POLITICAL FUND

[NOTE - These model rules take due account of all the statutory requirements of the Trade Union and Labour Relations (NI) Order 1995 (as amended) with regard to political funds. Subject to these statutory requirements, the Certification Officer will consider in each case any additions which a union may desire to make for the purpose of its own political fund.]

..... (Name of Union)

PARTIAL ALTERATION OF RULES

RULES FOR POLITICAL FUND

1. The objects of the

shall include the furtherance of the political objects to which Article 46 of the Trade Union

and Labour Relations (NI) Order 1995 (the 1995 Order) applies, that is to say the expenditure of money –

- (a) on any contribution to the funds of, or on the payment of expenses incurred directly or indirectly by, a political party;
- (b) on the provision of any service or property for use by or on behalf of any political party;
- (c) in connection with the registration of electors, the candidature of any person, the selection of any candidate or the holding of any ballot by the union in connection with any election to a political office;

- (d) on the maintenance of any holder of a political office;
- (e) on the holding of any conference or meeting by or on behalf of a political party or of any other meeting the main purpose of which is the transaction of business in connection with a political party;
- (f) on the production, publication or distribution of any literature, document, film, sound recording or advertisement the main purpose of which is to persuade people to vote for a political party or candidate or to persuade them not to vote for a political party or candidate.

Where a person attends a conference or meeting as a delegate or otherwise as a participator in the proceedings, any expenditure incurred in connection with his attendance as such shall, for the purposes of paragraph (e) above, be taken to be expenditure incurred on the holding of the conference or meeting.

In determining, for the purposes of paragraphs (a) to (f) above, whether the trade union has incurred expenditure of a kind mentioned in those paragraphs no account shall be taken of the ordinary administrative expenses of the union.

In these objects -

"candidate" means a candidate for election to a political office and includes a prospective candidate;

"contribution", in relation to the funds of a political party, includes any fee payable for affiliation to, or membership of, the party and any loan made to the party;

"electors" means electors at an election to a political office;

“executive” means the principal committee of the union exercising executive functions, by whatever name it is known;

"film" includes any record, however made, of a sequence of visual images, which is capable of being used as a means of showing that sequence as a moving picture;

"political office" means the office of member of the Assembly, member of Parliament, member of the European Parliament or member of a district council or any position within a political party.

2. Any payments in the furtherance of such political objects shall be made out of a separate fund of the union (hereinafter called “the political fund”).

3. As soon as is practicable after the passing of a resolution approving the furtherance of such political objects as an object of the union, the executive shall ensure that a notice in the following form is given to all members of the union in accordance with this rule:-

Trade Union and Labour Relations (NI) Order 1995

A resolution approving the furtherance of political objects within the meaning of the above Order as an object of the union has been adopted by a ballot under the Order. Any payments in the furtherance of any of those objects will be made out of a separate fund, the political fund of the union.

A member who is willing to contribute to that fund must give the union notice in writing to that effect. No member is required to contribute to the fund unless he/she has given the union such notice.

A member who, having sent a notice that he/she wishes to contribute to the political fund, subsequently decides to cease contributing must send the union a written notice of withdrawal. A notice of withdrawal will take effect from the next 1 January after it is given.

Both a notice and a notice of withdrawal may be given by being delivered at the head office or a branch office of the union personally or by an authorised agent or by post.

This notice shall be published to members by such methods as are customarily used by the union to publish notices of importance to members and shall include the following minimum requirements. The notice shall be published in the union's main journal which

is circulated to members. A copy of the notice shall be posted up and kept posted up for at least 12 months in a conspicuous place, accessible to members,

at the office or meeting place of each branch of the union. The Secretary of each branch shall also take steps to secure that every member of the branch, so far as is reasonably practicable, receives a copy of the notice, and shall supply a copy to any member on request. The executive shall provide the Secretary of each branch with a number of copies of the notice sufficient for these purposes.

4. Any member of the union may at any time give the union written notice of his/her willingness to contribute to the political fund.

5. Any member of the union who has given notice of willingness to contribute to the political fund may at any time withdraw that notice by giving the union written notice of withdrawal.

6. A notice of willingness to contribute to the political fund or a notice of withdrawal may be given by being delivered at the head office or a branch office of the union personally or by an authorised agent or by post. If a member gives notice at his branch, the Secretary of the branch shall on receiving it send the member an acknowledgement of receipt of the notice and inform the General Secretary of the name and address of the member.

7. A member who gives a notice of withdrawal shall cease to contribute to the political fund of the union as from the first day of January next after he gives that notice.

8. The executive shall ensure that contributions to the political fund from members are levied and made separately from contributions to any other fund of the union.

9. A member who is not a contributor to the political fund of the union shall not be excluded from any benefits of the union, or placed in any respect either directly or indirectly under any disability or disadvantage as compared with other members of the

union (except in relation to the control or management of the political fund) by reason of not being a contributor.

10. Contribution to the political fund of the union shall not be made a condition for admission to the union.

11. If any member alleges that he is aggrieved by a breach of any of these rules for the political fund, being a rule or rules made pursuant to Article 57 of the 1995 Order, he/she may complain to the Certification Officer, and the Certification Officer, after making such enquiries as he/she thinks fit and after giving the complainant and a representative of the union an opportunity of being heard, may, if he/she considers that such a breach has been committed, make such order for remedying the breach as he/she thinks just under the circumstances. Any such order of the Certification Officer may be enforced in the manner provided for in Article 57 (4B) of the Order.

12. The executive shall ensure that a copy of these rules is available, free of charge, to any member of the union who request a copy.

13. The executive shall also send to the Secretary of each branch sufficient copies of these rules for distribution to each member.

14. The Secretary of each branch shall, so far as possible secure that each member of that branch receives a copy of the rules.

15. The Secretary of each branch shall supply a copy of these rules free of charge to each member who requests a copy.

16. A copy of the rules shall also be supplied by the Secretary of each branch to every new member on his/her admission to the union.

MODEL RULES

Annex A

FOR A BALLOT TO ESTABLISH A POLITICAL FUND

(VERSION A: WHERE THE ROLES OF INDEPENDENT PERSON AND
SCRUTINEER ARE TO BE CARRIED OUT SEPARATELY)

Square brackets "[]" indicate where material appropriate to the individual trade union should be inserted.

..... (Name of Union)

PARTIAL ALTERATION OF RULES

Rules for a ballot under Article 48 of the Trade Union and Labour Relations

((NI) Order 1995 (as amended))

General

1. The executive shall be responsible to the union for securing that the ballot which is held to establish a political fund is conducted in accordance with these rules. This overall responsibility cannot be delegated, even where the responsibility for carrying out a particular duty falls upon a person not subject to the rules of the union. Administrative tasks for the conduct of such a ballot may be delegated in accordance with the rules or practice of the union.

Interpretation

2. In these ballot rules, unless the context otherwise requires:

"The 1995 Order" means the Trade Union and Labour Relations (NI) Order 1995 (as amended);

"the Certification Officer" means the Certification Officer for Trade Unions and Employers' Associations whose address is 4th Floor, James House, Cromac Avenue, Belfast, BT7 2JA

"the Department" means The Department for The Economy.

"dispatch envelope" means the envelope (in the form required by these rules) in which the voting paper and return envelope are dispatched to the member;

"executive" means the principal committee of the union exercising executive functions, by whatever name it is called;

"independent person" means the person or persons appointed to act as the independent person or persons in respect of the ballot under the provisions of Article 52 of the 1995 Order and these rules;

"person" in relation to the position of an independent person or a scrutineer, includes an unincorporated or incorporated body of persons;

"proper address" in relation to any member means his/her home address or other address which he/she has requested the union in writing to treat as his/her postal address under Article 51(4)(a) of the 1995 Order;

"return envelope" means an envelope in the form required by these rules;

"scrutineer" means the independent person appointed by the union to that position in relation to the ballot under Article 49 of the 1995 Order and these rules;

"the period specified before disposal" means the end of the period of one year beginning with the announcement by the union of the result of the ballot or, if within that period an application is made under Article 54 of the 1995 Order (complaint of failure to comply with the ballot rules), until the Certification Officer or the High Court authorises disposal by the scrutineer

"voting paper" or "ballot paper" means a voting paper in the form required by these rules.

Purpose of these Rules

3. These rules are adopted for the purposes of a ballot under Article 47 of the 1995 Order and apply only to such a ballot.

Copies of these Rules to be available to Members.

4. A copy of these rules shall be supplied either free of charge or on payment of a reasonable charge to any member of the union who requests a copy.

Appointment of a Scrutineer

5. Before the review ballot is held, a scrutineer shall be appointed to carry out such functions in relation to the ballot as are required under the 1995 Order and such additional functions as are specified in the appointment.

6. A person is eligible for appointment as scrutineer if:

- (a) the person satisfies the conditions which are for the time being specified by the Department for Employment and Learning pursuant to Article 49(2) of the 1995 Order or is a person specified by name in an order made under that section (at the time of the adoption of these rules, the conditions specified by the Department were contained in The Trade Union Elections and Ballots (Independent Scrutineer Qualifications) Order (NI) 1992 (SR 1992 no.241) and the persons specified by name were contained in the Trade Union Elections and Ballots (Independent Scrutineer Qualifications) (Amendment) Order (NI) 2003 (SR 2003 no.331) – available at www.opsi.gov.uk); and
- (b) there are no grounds for believing that the person in question will carry out any functions conferred on him/her in relation to the ballot otherwise than competently; or that his/her independence in relation to the union, or in relation to the ballot, might reasonably be called into question.

Terms of the Scrutineer's Appointment

7. The terms of the scrutineer's appointment shall require the scrutineer:

- (a) to supervise the production of the voting papers and (unless appointed to undertake the distribution of voting papers) their distribution;
- (b) to be the person to whom the voting papers are returned by those voting;
- (c) to inspect the register of names and addresses of members of the union or to examine the copy of the register as at the relevant date which is supplied to him/her in accordance with Article 49(9)(a) of the 1995 Order whenever it appears to him/her appropriate to do so and in particular where the conditions specified in Article 49(4) of the 1995 Order are satisfied;
- (d) to take such steps as appear to him/her to be appropriate for the purpose of enabling him/her to make a report under these rules;
- (e) to make that report to the union as soon as is reasonably practicable after the last date for the return of voting papers;
- (f) to retain custody of, and keep secure in a safe place, all voting papers returned for the purposes of the ballot together with the copy of the register of names and addresses of members supplied to him/her by the union, for the period specified before disposal, as defined in rule 2;
- (g) to carry out such other functions in relation to the ballot as are required of him/her under these rules or as the executive may specify in his/her appointment;
- (h) to store in a secure place any unused voting papers or voting papers which are returned undelivered until disposal; and

- (i) to respect the duty of confidentiality as regards the register.

Notice of Appointment of Scrutineer

8. Before the scrutineer begins to carry out any of these functions either:

- (a) a notice stating the name of the scrutineer shall be sent by the union to every member of the union to whom it is reasonably practicable to send such a notice; or
- (b) all such other steps shall be taken for notifying members of the union of the name of the scrutineer as it is the practice of the union to take when matters of general interest to all its members need to be brought to their attention.

Such notice or notification may invite members to inform the union of any change of address and advise members of the dates between which the ballot will be held.

Union's Duty towards the Scrutineer

9. Nothing in the terms of the scrutineer's appointment (including any additional functions specified in the appointment) shall be such as to make it reasonable for any person to call into question the scrutineer's independence in relation to the union.

10. The union shall ensure that there is no interference with the scrutineer in the carrying out of his/her functions which would make it reasonable for any person to call into question the scrutineer's independence in relation to the union.

11. The union shall comply with all reasonable requests made by the scrutineer for the purpose of or in connection with the carrying out of his/her functions.

Appointment of Independent Person to Distribute Voting Papers and Count the Votes Cast

12. The union shall appoint an independent person to undertake the storage and distribution of the voting papers and the counting of votes cast. This person shall be a

person who is not the scrutineer and in respect of whom the union has no grounds for believing either

- (i) that he/she will carry out any functions conferred on him/her in relation to the ballot otherwise than competently; or
- (ii) that his/her independence in relation to the union, or in relation to the ballot, might reasonably be called into question.

13. The terms of appointment of an independent person shall:

- (a) require him/her to carry out his/her functions so as to minimise the risk of any contravention of requirements imposed by or under any enactment or these rules or the occurrence of any unfairness or malpractice; and
- (b) incorporate the duty of confidentiality as respects the register

14. Where the independent person appointed to undertake the counting of the votes is not the scrutineer, his/her appointment shall require him/her to send the voting papers back to the scrutineer as soon as is reasonably practicable after the counting has been completed.

15. The independent person shall be responsible for the safe custody of:

- (a) voting papers and envelopes prior to their sending out to members and for any voting papers and envelopes until their handing over to the scrutineer (if appropriate); and
- (b) voting papers at all other times when in his/her possession,

and shall ensure that voting papers and return envelopes in his/her possession are kept in a secure place.

Union's Duty towards the Independent Person

16. Nothing in the terms of the appointment of the independent person shall be such as to make it reasonable for any person to call into question the independence of the person appointed in relation to the union.

17. The union shall ensure that the independent person carries out his/her functions and that there is no interference with his/her 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.

18. The union shall comply with all reasonable requests made by the independent person for the purposes of, or in connection with, the carrying out of his/her functions.

Dispatch envelopes

19. The dispatch envelope:

- (a) shall be addressed to the member entitled to vote;
- (b) shall state that if the envelope is undelivered to the member it should be returned to the scrutineer, and shall give the scrutineer's name and address;
- (c) shall bear a postage stamp or other stamp or mark allowing it to be delivered at no cost to the member; and
- (d) in the event of the envelope containing material other than the material relating to the ballot, the envelope shall have printed on it prominently the words "ballot paper" or "voting paper".

But where, for the purpose of personal safety, a member asks the union in writing to send a voting paper to him/her by some means other than by post, the union shall send the voting paper to him/her by that other means

Voting Papers

20. Every voting paper shall be in, or substantially in accordance with, the form set out in appendix 1 to these rules and:

- (a) shall state the name of the scrutineer, and clearly specify the address to which, and the date by which, it is to be returned;
- (b) shall be marked with one of a series of consecutive whole numbers, every one of which is used in giving a different number in that series to each voting paper printed or otherwise produced for the purposes of the ballot;
- (c) may have printed on it the logo or emblem of the union;
- (d) may have printed on it or attached to it an explanatory statement.

Return Envelopes

21. Every return envelope:

- (a) shall be capable of being sealed;
- (b) shall be addressed to the scrutineer;
- (c) shall bear a postage stamp or other stamp or mark showing that the envelope may be returned to the scrutineer by post without direct cost to the voter; and
- (d) may have printed on it;
 - (i) the name of the union;
 - (ii) the logo or emblem of the union; and

- (iii) the words “voting paper” or “ballot paper”.

Date of Ballot

22. The executive shall determine:

- (a) the date by which the voting papers shall be sent to members, which shall be a date not less than three weeks before the last date for receipt of completed voting papers by the scrutineer;
- (b) the last date for receipt of completed voting papers by the scrutineer; and
- (c) the date on which the counting of votes is to commence.

Conduct of the Ballot

23. Entitlement to vote in the ballot shall be accorded equally to all members

24. The ballot shall be conducted so as to secure that, so far as is reasonably practicable, those voting do so in secret.

25. So far as is reasonably practicable, every person who is entitled to vote in the ballot shall, in accordance with these rules:

- (a) be sent a voting paper by post (or, if a member has specified some other means under rule 19, by that other means), in such time as to be received on or before the opening day of the ballot; and
- (b) be given a convenient opportunity to vote by post.

26. Every person who is entitled to vote in the ballot shall:

- (a) be allowed to vote without interference from, or constraint imposed by, the union or any of its members, officials or employees; and

- (b) so far as is reasonably practicable be able to do so without incurring any direct cost to him/herself.

27. Every person who is entitled to vote in the ballot shall have sent to him/her in a sealed dispatch envelope, at his/her proper address, by post or such other means as he/she may have specified under rule 19:

- (a) a voting paper; and
- (b) a return envelope addressed to the scrutineer.

28. When it is not practicable for a particular member to be sent a voting paper and return envelope by the date determined in accordance with these rules, a voting paper and return envelope may be sent to that member as soon as is reasonably practicable after that date, so as to give that member a convenient opportunity to vote by post.

29. The name of each member to whom a voting paper is sent shall be recorded in some form or record of members but not so as to make it reasonable for any person to call into question the secrecy of the ballot. The independent person shall send this record to the scrutineer as soon as is reasonably practicable after the ballot, and the scrutineer shall keep it for the period specified before disposal, as defined in rule 2.

Manner of Voting

30. Every member who wishes to vote must return his/her voting paper to arrive at the address of the scrutineer on or before the date determined in accordance with these rules.

31. The scrutineer shall store in a secure place any voting papers returned to him/her undelivered and shall keep a record of each voting paper so returned.

32. The scrutineer shall be responsible for the safe custody and security of all returned envelopes and voting papers during the period of the ballot and for the period specified before disposal, as defined in rule 2. The scrutineer shall at all times take all reasonable steps to secure the safe custody of the returned envelopes and voting papers so as to minimise the risk of any contravention of the requirements imposed by or under any enactment or these rules, or the occurrence of any unfairness or malpractice.

Counting of the Ballot

33. The ballot shall be conducted so as to secure that the votes are fairly and accurately counted by the independent person. Any inaccuracy in counting is to be disregarded for the purpose of this rule if it is accidental or on a scale which could not affect the results of the ballot.

34. On the date appointed for the commencement of the counting of votes and before the counting begins, the independent person shall hand over to the scrutineer any remaining stock of voting papers not distributed to members. The scrutineer shall before counting begins:

- (a) place the unused voting papers in a secure place; and
- (b) keep a record of the number of voting papers so stored and a record of any voting papers issued under rule 28.

35. On the date appointed for the commencement of the count the scrutineer shall hand over to the independent person the unopened return envelopes received in respect of the ballot. The independent person shall undertake the opening of the return envelopes and the counting of the votes.

36. No person may be present at the count other than:

- (a) the scrutineer;
- (b) the independent person;
- (c) those acting under the supervision of the independent person, and
- (d) those present with the consent of the scrutineer.

37. The independent person or if more than one of them the majority of them shall decide whether any voting paper shall be rejected as being invalid and shall mark each such voting paper "rejected".

38. Those voting papers which are not rejected shall be counted.

39. After the count the scrutineer shall take all of the voting papers returned for the purpose of the ballot and retain custody of them for the period specified before disposal, as defined in rule 2.

Scrutineer's report

40. As soon as is reasonably practicable after the last date for the return of voting papers the scrutineer shall make a report ("the scrutineer's report") to the union in accordance with these rules. The scrutineer's report shall state:

- (a) the number of voting papers distributed for the purposes of the ballot;
- (b) the number of voting papers returned to the scrutineer by the members;
- (c) the number of valid votes cast in the ballot for and against the resolution;
- (d) the number of spoiled or otherwise invalid voting papers returned;
- (e) the name of the person (or of each of the persons) appointed as the independent person (or persons);
- (f) whether the scrutineer:
 - (i) is satisfied that there are no reasonable grounds for believing that there was any contravention of a requirement imposed by or under any enactment or these rules in relation to the ballot;

- (ii) is satisfied that the arrangements made (whether by him/her or another person) with respect to the production, storage, distribution, return or other handling of the voting papers used in the ballot, and the arrangements for counting the votes, included all such security arrangements as were reasonably practicable for the purpose of minimising the risk that any interference or malpractice might occur;
- (iii) is satisfied he/she has been able to carry out his/her functions without such interference as would make it reasonable for any person to call his/her independence in relation to the union into question;
- (iv) has inspected the register of names and addresses of members of the union or has examined a copy of the register supplied to him/her under these rules.

41. If the scrutineer has inspected the register or examined a copy of the register in accordance with these rules, the report shall state:

- (a) in the case of each inspection or examination, whether it was at the request of a member of the union or at his/her own instance, and, if appropriate, whether he/she declined to act on such a request; and
- (b) whether any inspection of the register or any examination of the copy of the register has revealed any matters which he/she considers should be drawn to the attention of the union in order to assist in securing that the register is accurate and up-to-date, but shall not state the name of any member who has requested this inspection or examination.

42. The scrutineer's report shall also state:

- (a) whether he/she is satisfied with the performance of the independent person or persons; and
- (b) if he/she was not satisfied with the performance of the person or persons or any of them, particulars of his/her reasons for not being satisfied.

Copy of the Scrutineer's Report to be sent to the Certification Officer

43. A copy of the Scrutineer's report shall be sent to the Certification Officer by the union as soon as is reasonably practicable.

Publicising the Result of the Ballot

44. The result of the ballot shall not be published until the union has received the scrutineer's report.

45. Within three months from the date on which it receives the scrutineer's report the union shall:

- (a) send a copy of the report to every member to whom it is reasonably practicable to send such a copy; or
- (b) take all such other steps for notifying the contents of the report to the members whether by publishing the report or otherwise as it is the practice of the union to take when matters of general interest to all its members need to be brought to their attention.

46. The union shall ensure that any notification given in accordance with rule 45(b) is accompanied by a statement that the union will, on request, supply any member with a copy of the report either:

(a) free of charge; or

(b) on payment of such reasonable fee as may be specified in the notification,

and ensure that any member who makes such a request is supplied with a copy of the report on payment of such fee (if any) as has been notified to him/her.

Model Rules – Annex A

Appendix 1

VOTING PAPER ON ESTABLISHMENT OF A POLITICAL FUND

Ballot paper number:[]

..... [name of union]

THE RESOLUTION is that the political objects set out in Article 46 of the Trade Union and Labour Relations (NI) Order 1995 (reproduced overleaf) be approved as an object of the Union

Do you vote in favour of the Resolution?

YES

NO

You must place a cross on one, and only one, of the boxes provided.

Place the voting paper in the addressed envelope (no stamp required) and return it to the Scrutineer to arrive before the A voting paper received after this date will not be counted.

Please do not sign or make any other mark on the paper [or include anything else with your voting paper]

Name of Scrutineer.....

Address to which voting paper is to be sent.....

Model Rules – Annex A
(reverse of the voting paper) Appendix 1

Article 46 of the Trade Union and Labour Relations (NI) Order 1995.

This section applies to the following political objects:

The expenditure of money –

- (a) on any contribution to the funds of, or on the payment of expenses incurred directly or indirectly by, a political party;
- (b) on the provision of any service or property for use by or on behalf of any political party;
- (c) in connection with the registration of electors, the candidature of any person, the selection of any candidate or the holding of any ballot by the union in connection with any election to a political office;
- (d) on the maintenance of any holder of a political office;
- (e) on the holding of any conference or meeting by or on behalf of a political party or of any other meeting the main purpose of which is the transaction of business in connection with a political party;
- (f) on the production, publication or distribution of any literature, document, film, sound recording or advertisement the main purpose of which is to persuade people to vote for a political party or candidate or to persuade them not to vote for a political party or candidate.

Where a person attends a conference or meeting as a delegate or otherwise as a participator in the proceedings, any expenditure incurred in connection with his

attendance as such shall, for the purposes of paragraph (e) above, be taken to be expenditure incurred on the holding of the conference or meeting.

In determining, for the purposes of paragraphs (a) to (f) above, whether the trade union has incurred expenditure of a kind mentioned in those paragraphs no account shall be taken of the ordinary administrative expenses of the union.

In these objects -

"candidate" means a candidate for election to a political office and includes a prospective candidate;

"contribution", in relation to a political party, includes any fee payable for affiliation to, or membership of, the party and any loan made to the party;

"electors" means electors at any election to a political office;

"film" includes any record, however made, of a sequence of visual images, which is capable of being used as a means of showing that sequence as a moving picture;

"political office" means the office of member of the Assembly, member of Parliament, member of the European Parliament or member of a district council or any position within a political party.

MODEL RULES

Annex B

FOR A BALLOT TO ESTABLISH A POLITICAL FUND

(VERSION B: WHERE THE SCRUTINEER MUST ALSO ACT
AS THE INDEPENDENT PERSON)

Square brackets "[]" indicate where material appropriate to the individual trade union should be inserted.

..... (Name of Union)

PARTIAL ALTERATION OF RULES

Rules for a ballot under Article 48 of the Trade Union and Labour Relations
(NI) Order 1995 (as amended)

General

1. The executive shall be responsible to the union for securing that the ballot which is held to establish a political fund is conducted in accordance with these rules. This overall responsibility cannot be delegated, even where the responsibility for carrying out a particular duty falls upon a person not subject to the rules of the union. Administrative tasks for the conduct of such a ballot may be delegated in accordance with the rules or practice of the union.

Interpretation

2. In these ballot rules, unless the context otherwise requires:

"the Order" means the Trade Union and Labour Relations (NI) Order 1995 (as amended);

"the Certification Officer" means the Certification Officer for Trade Unions and Employers' Associations whose address is 4th Floor, James House, Cromac Avenue, Belfast, BT7 2JA.

"dispatch envelope" means the envelope (in the form required by these rules) in which the voting paper and return envelope are dispatched to the member;

"executive" means the principal committee of the union exercising executive functions, by whatever name it is called;

"independent person" means the person or persons appointed to act as the independent person or persons in respect of the ballot under the provisions of Article 52 of the 1995 Order and these rules;

"person" in relation to the position of an independent person or a scrutineer, includes an unincorporated or incorporated body of persons;

"proper address" in relation to any member means his/her home address or other address which he/she has requested the union in writing to treat as his/her postal address under Article 51(4)(a) of the 1995 Order;

"return envelope" means an envelope in the form required by these rules;

"scrutineer" means the independent person appointed by the union to that position in relation to the ballot under Article 49 of the 1995 Order and these rules;

"the period specified before disposal" means the end of the period of one year beginning with the announcement by the union of the result of the ballot or, if within that period an application is made under Article 54 of the 1995 Order (complaint of failure to comply with the ballot rules), until the Certification Officer or the High Court authorises disposal by the scrutineer;

"voting paper" or "ballot paper" means a voting paper in the form required by these rules;

Purpose of these Rules

3. These rules are adopted for the purposes of a ballot under Article 47 of the 1995 Order and apply only to such a ballot.

Copies of these Rules to be available to Members.

4. The executive shall ensure that a copy of these rules is supplied, free of charge or on payment of a reasonable charge, to any member of the union who requests a copy.

Appointment of a Scrutineer where the Scrutineer acts as the independent person

5. Before the review ballot is held, a scrutineer shall be appointed to carry out such functions in relation to the ballot as are required under the 1995 Order and such additional functions as are specified in the appointment, and to act as the independent person under Article 49(1) of the 1995 Order in relation to the ballot

6. A person is eligible for appointment as scrutineer if:

- (a) the person satisfies the conditions which are for the time being specified by the Department pursuant to Article 49(2) of the 1995 Order or is a person specified by name in an order made under that section (the conditions specified by the Department were, at the time of the adoption of these rules, contained in The Trade Union Elections and Ballots (Independent Scrutineer Qualifications) Order (NI) 1992 (SR 1992 no. 241) and the persons specified by name were contained in the Trade Union Elections and Ballots (Independent Scrutineer Qualifications) (Amendment) Order (NI) 2003 (SR 2003 no. 331) – available at www.opsi.gov.uk); and
- (b) there are no grounds for believing that the person in question will carry out any function conferred on him/her in relation to the ballot otherwise than competently; or that his/her independence in relation to the union or in relation to the ballot might reasonably be called into question.

Terms of the Appointment

7. The terms of the appointment shall require the scrutineer:

- (a) to supervise the production of the voting papers and to undertake the storage and distribution of the voting papers and the counting of votes cast;
- (b) to be the person to whom the voting papers are returned by those voting;
- (c) to inspect the register of names and addresses of members of the union or to examine the copy of the register as at the relevant date which is supplied to him/her in accordance with Article 49(3)(b) of the 1995 Order whenever it appears to him/her appropriate to do so and in particular where the conditions specified in Article 49(4) of the 1995 Order are satisfied;
- (d) take such steps as appear to him/her to be appropriate for the purpose of enabling him/her to make a report under these rules;
- (e) to make that report to the union as soon as is reasonably practicable after the last date for the return of voting papers;
- (f) to retain custody of and keep secure in a safe place all voting papers returned for the purposes of the ballot together with the relevant copy of the register of names and addresses of members supplied to him/her by the union for the period specified before disposal, as defined in rule 2;
- (g) to carry out such other functions in relation to the ballot as are required of him/her under these rules or as the executive may specify in his/her appointment;
- (h) to store in a secure place any unused voting papers or voting papers which are returned undelivered until disposal;

- (i) to respect the duty of confidentiality in respect of the register; and
- (j) to carry out these tasks in a manner which minimises the risk of any contravention of requirements imposed by or under any enactment or these rules or the occurrence of any unfairness or malpractice.

Notice of Appointment

8. Before the scrutineer begins to carry out any of these functions either:

- (a) a notice stating the name of the scrutineer shall be sent to every member of the union to whom it is reasonably practicable to send such a notice; or
- (b) all such other steps shall be taken for notifying members of the union of the name of the scrutineer as it is the practice of the union to take when matters of general interest to all its members need to be brought to their attention.

Such notice or notification may invite members to inform the union of any change of address and advise members of the dates between which the ballot will be held.

Union's Duty Towards the Scrutineer

9. Nothing in the terms of the scrutineer's appointment (including any additional functions specified in the appointment) shall be such as to make it reasonable for any person to call into question the scrutineer's independence in relation to the union.

10. The union shall ensure that there is no interference with the scrutineer in carrying out the functions imposed on him/her by the terms of the appointment which would make it reasonable for any person to call into question the scrutineer's independence in relation to the union.

11. The Union shall comply with all reasonable requests made by the scrutineer for the purpose of, or in connection with, the carrying out of his/her functions.

Dispatch envelopes

12. The dispatch envelope:

- (a) shall be addressed to the member entitled to vote;
- (b) shall state that if the envelope is undelivered to the member it should be returned to the scrutineer and give his/her name and address;
- (c) shall bear a postage stamp or other stamp or mark allowing it to be delivered at no cost to the member; and
- (d) in the event of the envelope containing material other than the material relating to the ballot, the envelope shall have printed on it prominently the words "ballot paper" or "voting paper".

But where, for the purpose of personal safety, a member asks the union in writing to send a voting paper to him/her by some means other than by post, the union shall send the voting paper to him/her by that other means.

Voting Papers

13. Every voting paper shall be in or substantially in accordance with the form set out in appendix 1 to these rules and:

- (a) shall state the name of the scrutineer and clearly specify the address to which, and the date by which, it is to be returned;
- (b) shall be marked with one of a series of consecutive whole numbers, every one of which is used in giving a different number in that series to each voting paper printed or otherwise produced for the purposes of the ballot;

- (c) may have printed on it the logo or emblem of the union;
- (d) may have printed on it or attached to it an explanatory statement.

Return Envelopes

14. Every return envelope:

- (a) shall be capable of being sealed;
- (b) shall be addressed to the scrutineer;
- (c) shall bear a postage stamp or other stamp or mark showing that the envelope may be returned to the scrutineer by post without direct cost to the voter; and
- (d) may have printed on it:
 - (i) the name of the union;
 - (ii) the logo or emblem of the union; and
 - (iii) the words "voting paper" or "ballot paper"

Date of Ballot

15. The executive shall determine:

- (a) the date by which the voting papers shall be sent to members, which shall be a date not less than three weeks before the last date for receipt of completed voting papers by the scrutineer;
- (b) the last date for receipt of completed voting papers by the scrutineer; and
- (c) the date on which the counting of votes is to commence.

Conduct of the Ballot

16. Entitlement to vote in the ballot shall be accorded equally to all members.

17. The ballot shall be conducted so as to secure that, so far as is reasonably practicable, those voting do so in secret.

18. So far as is reasonably practicable, every person who is entitled to vote in the ballot shall, in accordance with these rules:

- (a) be sent a voting paper by post (or if a member has specified some other means under rule 12, by that other means) in such time as to be received on or before the opening day of the ballot; and
- (b) be given a convenient opportunity to vote by post.

19. Every person who is entitled to vote in the ballot shall:

- (a) be allowed to vote without interference from, or constraint imposed by, the union or any of its members, officials or employees; and
- (b) so far as is reasonably practicable be able to do so without incurring any direct cost to him/herself.

20. Every person who is entitled to vote in the ballot shall have sent to him/her in a sealed dispatch envelope, at his/her proper address, by post or such other means as he/she may have specified under rule 12:

- (a) a voting paper; and
- (b) a return envelope addressed to the scrutineer.

21. When it is not practicable for a particular member to be sent a voting paper and return envelope by the date determined in accordance with these rules, a voting paper

and return envelope may be sent to that member as soon as is reasonably practicable after that date, so as to give that member a convenient opportunity to vote by post.

22. The name of each member to whom a voting paper is sent shall be recorded in some form or record of members but not so as to make it reasonable for any person to call into question the secrecy of the ballot. This record shall be kept by the scrutineer for the period specified before disposal, as defined in rule 2.

Manner of Voting

23. Every member who wishes to vote must return his/her voting paper to arrive at the address of the scrutineer on or before the date determined in accordance with these rules.

24. The scrutineer shall store in a secure place any voting papers returned to him/her undelivered and shall keep a record of each voting paper so returned.

25. The scrutineer shall be responsible for the safe custody and security of all returned envelopes and voting papers during the period of the ballot and for the period specified before disposal, as defined in rule 2. The scrutineer shall at all times take all reasonable steps to secure the safe custody of the returned envelopes and voting papers so as to minimise the risk of any contravention of the requirements imposed by or under any enactment or these rules, or the occurrence of any unfairness or malpractice.

Counting of the Ballot

26. The ballot shall be conducted so as to secure that the votes are fairly and accurately counted by the scrutineer. Any inaccuracy in counting is to be disregarded for the purpose of this rule if it is

accidental or on a scale which could not affect the results of the ballot.

27. The scrutineer shall before counting begins:

- (a) place any unused voting papers in a secure place; and

- (b) keep a record of the number of voting papers so stored and a record of any voting papers issued under rule 21.

28. No person may be present at the count other than:

- (a) the scrutineer;
- (b) those acting under the supervision of the scrutineer; and
- (c) those present with the consent of the scrutineer.

29. On the date appointed for the commencement of the count, the scrutineer shall undertake the opening of the return envelopes received and the counting of votes.

30. The scrutineer shall decide whether any voting paper shall be rejected as being invalid and shall mark each such voting paper "rejected".

31. Those voting papers which are not rejected shall be counted.

32. After the count the scrutineer shall retain custody of all of the voting papers returned for the purpose of the ballot for the period specified before disposal, as defined in rule 2.

Scrutineer's report

33. As soon as is reasonably practicable after the last date for the return of voting papers the scrutineer shall make a report ("the scrutineer's report") to the union in accordance with these rules. The scrutineer's report shall state:

- (a) the number of voting papers distributed for the purposes of the ballot;
- (b) the number of voting papers returned to the scrutineer by the members;
- (c) the number of valid votes cast in the ballot for and against the resolution;
- (d) the number of spoiled or otherwise invalid voting papers returned;

- (e) the fact that the scrutineer was appointed as the independent person or persons;
- (f) whether the scrutineer:
 - (i) is satisfied that there are no reasonable grounds for believing that there was any contravention of a requirement imposed by or under any enactment or these rules in relation to the ballot;
 - (ii) is satisfied that the arrangements made by him/her with respect to the production, storage, distribution, return or other handling of the voting papers used in the ballot, and the arrangements for counting the votes, included all such security arrangements as were reasonably practicable for the purpose of minimising the risk that any interference or malpractice might occur;
 - (iii) is satisfied that the he/she has been able to carry out his/her functions without any interference as would make it reasonable for any person to call his/her independence in relation to the union into question; and
 - (iv) has inspected the register of names and addresses of members of the union or has examined a copy of the register supplied to him/her under these rules.

34. If the scrutineer has inspected the register or examined a copy of the register in accordance with these rules, the report shall state:

- (a) in the case of each inspection or examination, whether it was at the request of a member of the union or at his/her own instance, and, if appropriate, whether he/she declined to act on such a request; and

- (b) whether any inspection of the register or any examination of the copy of the register has revealed any matters which he/she considers should be drawn to the attention of the union in order to assist in securing that the register is accurate and up-to-date, but shall not state the name of any member who has requested this inspection or examination.

Copy of the Scrutineer's Report to be sent to the Certification Officer

35. A copy of the scrutineer's report shall be sent by the union to the Certification Officer as soon as is reasonably practicable.

Publicising the Result of the Ballot

36. The result of the ballot shall not be published until the union has received the scrutineer's report.

37. Within three months from the date on which it receives the scrutineer's report the executive shall:

- (a) send a copy of the report to every member to whom it is reasonably practicable to send such a copy; or
- (b) take all such other steps for notifying the contents of the report to the members whether by publishing the report or otherwise as it is the practice of the union to take when matters of general interest to all its members need to be brought to their attention.

38. The union shall ensure that any notification given under rule 37(b) is accompanied by a statement that the union will, on request, supply any member with a copy of the report either:

- (a) free of charge; or

(b) on payment of such reasonable fee as may be specified in the notification,

and ensure that any member who makes such a request is supplied with a copy of the report on payment of such fee (if any) as has been notified to him/her.

Model Rules – Annex B

Appendix 1

VOTING PAPER ON ESTABLISHMENT OF A POLITICAL FUND

Ballot paper number:[]

..... [name of union]

THE RESOLUTION is that the political objects set out in Article 46 of the Trade Union and Labour Relations (NI) Order 1995 (reproduced overleaf) be approved as an object of the Union

Do you vote in favour of the Resolution?

YES

NO

You must place a cross on one, and only one, of the boxes provided.

Place the voting paper in the addressed envelope (no stamp required) and return it to the Scrutineer to arrive before the A voting paper received after this date will not be counted.

Please do not sign or make any other mark on the paper [or include anything else with your voting paper]

Name of Scrutineer.....

Address to which voting paper is to be sent.....

Model Rules – Annex B
(reverse of the voting paper)Appendix 1

Article 46 of the Trade Union and Labour Relations (NI) Order 1995:

This section applies to the following political objects:

The expenditure of money –

- (a) on any contribution to the funds of, or on the payment of expenses incurred directly or indirectly by, a political party;
- (b) on the provision of any service or property for use by or on behalf of any political party;
- (c) in connection with the registration of electors, the candidature of any person, the selection of any candidate or the holding of any ballot by the union in connection with any election to a political office;
- (d) on the maintenance of any holder of a political office;
- (e) on the holding of any conference or meeting by or on behalf of a political party or of any other meeting the main purpose of which is the transaction of business in connection with a political party;
- (f) on the production, publication or distribution of any literature, document, film, sound recording or advertisement the main purpose of which is to persuade people to vote for a political party or candidate or to persuade them not to vote for a political party or candidate.

Where a person attends a conference or meeting as a delegate or otherwise as a participator in the proceedings, any expenditure incurred in connection with his attendance as such shall, for the purposes of paragraph (e) above, be taken to be expenditure incurred on the holding of the conference or meeting.

In determining, for the purposes of paragraphs (a) to (f) above, whether the trade union has incurred expenditure of a kind mentioned in those paragraphs no account shall be taken of the ordinary administrative expenses of the union.

In these objects –

"candidate" means a candidate for election to a political office and includes a prospective candidate;

"contribution", in relation to the funds of a political party, includes any fee payable for affiliation to, or membership of, the party and any loan made to the party;

"electors" means electors at any election to a political office;

"film" includes any record, however made, of a sequence of visual images, which is capable of being used as a means of showing that sequence as a moving picture;

"political office" means the office of member of the Assembly, member of Parliament, member of the European Parliament or member of a district council or any position within a political party.

CERTIFICATION OFFICE PUBLICATIONS

The following publications are also available, free of charge, from the Certification Office. They are also available to be downloaded or printed from the Certification Officer's website, www.nicertoffice.org.uk

The Certification Officer's Annual Reports.

Mergers: A Guide to the statutory requirements for transfers of engagements and amalgamations of trade unions.

Mergers: A Guide to the statutory requirements for transfers of engagements and amalgamations of trade unions employers' associations.

Guidance for Trade Unions and Employers' Associations wishing to establish a political fund.

A guide to political fund review ballots.

Financial Irregularities in Trade Unions and Employers' Associations - The approach of the Certification Officer.

Guidance for Trade Unions wishing to apply for a Certificate of Independence.

A Guide to making a Complaint to the Certification Officer.

Guidance on Procedure at hearings.

The Department for The Economy has produced guides on various aspects of trade union legislation, which can be found or downloaded from the Department's website <https://www.economy-ni.gov.uk>.

