

**Annual Report
of the
Certification
Officer
for
Northern Ireland**

1995

Certification Office for
Trade Unions and Employers' Associations

16th Floor
Windsor House
9-15 Bedford Street
Belfast BT2 7NU
Tel: 01232 237773
Fax: 01232 330827
TDD (Text Phone) 01232 238411

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NORTHERN IRELAND CERTIFICATION OFFICE FOR
TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

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of the
Certification Officer
for
Northern Ireland
1995**

Mr G F Loughran
Permanent Secretary
Department of Economic Development
Netherleigh
Massey Avenue
BELFAST
BT4 2JP

Mr F A Mackle OBE
Chairman
Labour Relations Agency
Windsor House
9-15 Bedford Street
BELFAST
BT2 7NU

I have pleasure in submitting the report on my activities as Certification Officer during the period from 1 April 1994 to 31 March 1995 as required by the Industrial Relations (Northern Ireland) Order 1992.



A H McALISTER
Certification Officer for Northern Ireland
27 October 1995

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INTRODUCTION

This is the third Annual Report to be published since the post of Certification Officer was established under Article 69 of the Industrial Relations (Northern Ireland) Order 1992 - the 1992 Order. It deals with my activities for the period 1 April 1994 to 31 March 1995.

The Labour Relations Agency is responsible for providing me with the finance and support services necessary for the performance of my statutory duties but this in no way affects the exercise of my functions independently both of the Agency and the Department of Economic Development.

Under Article 69(7) of the 1992 Order I am required to submit to the Agency and to the Department of Economic Development as soon as practicable after the end of each financial year a report of my activities during that year. During this period my statutory duties included the following responsibilities:

Under Part II, Articles 5 and 6 - for maintaining a list of trade unions and employers' associations, and for determining the independence of trade unions;

Under Part II, Articles 11 and 12 - for seeing that trade unions and employers' associations keep accounting records, have their accounts properly audited and submit annual returns; and for ensuring that the statutory requirements concerning the actuarial examination of members superannuation schemes are observed;

Under Part VII, Article 52 - for dealing with trade union members' complaints about trade union elections;

Under Part VIII, Articles 57, 61 and 67 - for approving political fund rules of Northern Ireland based unions, approving the "contracting-in" rule for Northern Ireland members of trade unions based elsewhere, and for dealing with trade union members' complaints about political funds;

Under Part X, Articles 74 to 81 - for approving arrangements for trade union amalgamations, etc. and dealing with trade union members' complaints about amalgamations;

Under Part XII, Article 102 - for reimbursing certain expenditure incurred by independent trade unions in conducting secret postal ballots for specified purposes in accordance with Regulations made by the Department of Economic Development.

A separate chapter discusses each of these functions.

The Office receives many enquiries and requests for guidance from trade unions, employers' associations and their members. Often we can help but there are constraints on the advice that can be given. It is, for example, inappropriate to give guidance on or prior approval to (unless the law requires it) a specific course of action in those areas where complaints can be made to me by an individual member. Where a complaint is made, I have to investigate it and decide it completely impartially on the facts of the case and in the light of the representations made by the parties concerned. I and my staff have to avoid giving advice which might seem in any way to prejudice that impartiality. That said, my Office will assist where it can and the guidance booklets listed in Appendix 8 have been made available.

Accounts of the Office are prepared under Article 15(2) of Schedule 4 of the 1992 Order and are published separately by the Labour Relations Agency.

Where it necessary to hold a hearing to determine a complaint, the Certification Officer can make payment towards the expenses incurred by the complainant and a friend in attending the hearing. Assistance with legal costs is not available.

Contacts for Information

Guidance booklets covering different aspects of the Certification Officer's responsibilities are available free of charge. They are listed in Appendix 8 and requests for the booklets and for further information on any aspect of the Certification Officer's duties should be made to the Certification Office, Windsor House, 9-15 Bedford Street, Belfast BT2 7NU, telephone: 01232 237773, fax: 01232 330827. A text phone number is also available for those customers with hearing difficulties. Those who wish to use this service should ring 01232 238411.

Chapter 1

Lists of Trade Unions and Employers' Associations

Any trade union or employers' association may apply to have its name included in the public lists maintained by the Certification Officer. This chapter sets out the background to that process.

Entry in the lists and its significance

- 1.1 The Certification Officer maintains a list of trade unions and a list of employers' associations in accordance with the provisions of Article 5 of the Industrial Relations (Northern Ireland) Order 1992.
- 1.2 Listing is voluntary and any trade union or employers' association may apply to have its name included in these lists. If the Certification Officer is satisfied that the organisation falls within the appropriate definition, he must enter its name in the relevant list. Entry in the list is usually a simple process and means no more than that the body concerned satisfies the statutory definition. The statutory definitions of a trade union and an employers' association are set out in Articles 3(1) and 4(1) respectively of the 1992 Order and are reproduced in full at paragraph 1.12.
- 1.3 Any organisation aggrieved by the refusal of the Certification Officer to enter its name in the relevant list may appeal to the High Court.
- 1.4 For trade unions, listing is an essential preliminary to any application for a certificate of independence under Article 6 of the 1992 Order. It is also one of the requirements for obtaining tax relief in respect of expenditure on provident benefits. There are no corresponding advantages for employers' associations.
- 1.5 No applications for listing were received during the period of this report.
- 1.6 Application must be made on form CO(NI)1, available on request from the Certification Office, and accompanied by the statutory fee of £45*.
- 1.7 The current lists are available for inspection, free of charge, at the Certification Office, 16th Floor, Windsor House, 9-15 Bedford Street, Belfast BT2 7NU.

Removal from the lists

- 1.8 If at any time it appears to the Certification Officer that an organisation whose name is entered on the relevant list is not a trade union or an employers' association, he may, after giving the organisation concerned the opportunity to

make representations, remove its name from that list. There is a right of appeal to the High Court against removal of a name from a list. The Certification Officer must also remove the name of an organisation from the list if he is satisfied that it no longer exists or if the organisation requests that he should do so.

Unlisted organisations

- 1.9 Because entry in the lists is voluntary it is not possible to say precisely how many trade unions and employers' associations are in existence at any given time. There may be others meeting the statutory definition of which the Office is unaware.

Changes of name

- 1.10 The 1992 Order stipulates that a change of name of a listed trade union or employers' association must be approved by the Certification Officer before it can take effect. No such requests were received during the period of this report.

Department of Economic Development statistics

- 1.11 The information collected by the Office provides the main basis for updating the Department of Economic Development's annual statistics of numbers and membership of trade unions.

Statutory Definitions in the Industrial Relations (Northern Ireland) Order 1992

- 1.12 Article 3.1 of the 1992 Order reads as follows:

3.-(1) In this Order "trade union" means an organisation (whether permanent or temporary) which either -

(a) consists wholly or mainly of workers of one or more descriptions and is an organisation whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers' associations; or

(b) consists wholly or mainly of -

(i) constituent or affiliated organisations which fulfil the conditions specified in sub-paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions); or

(ii) representatives of such constituent or affiliated organisations; and in either case is an organisation whose principal purposes include the regulation of relations between workers and employers or between workers and employers' associations, or include the regulation of relations between its constituent or affiliated organisations.

*£50 from 30 April 1995.

Article 4.1 of the 1992 Order reads as follows:

- 4.-(1) *Subject to paragraph (2), in this Order "employers' association" means an organisation (whether permanent or temporary) which either -*
- (a) consists wholly or mainly of employers or individual proprietors of one or more descriptions and is an organisation whose principal purposes include the regulation of relations between employers of that description or those descriptions and workers or trade unions; or*
 - (b) consists wholly or mainly of -*
 - (i) constituent or affiliated organisations which fulfil the conditions specified in sub-paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions); or*
 - (ii) representatives of such constituent or affiliated organisations;*
and in either case is an organisation whose principal purposes include the regulation of relations between employers and workers or between employers and trade unions, or include the regulation of relations between its constituent or affiliated organisations.
- (2) References in this Order to an employers' association include references to a combination of employers and employers' associations.*

Chapter 2

Trade Union Independence

A trade union which is on the list of trade unions may apply for a certificate of independence. Chapter 2 discusses independence and explains how such applications are dealt with and their outcome.

The statutory provisions

2.1 Article 2(1) of the 1992 Order defines an independent trade union as:

'a trade union which -

- (a) is not under the domination or control of an employer or a group of employers or of one or more employers' associations; and*
- (b) is not liable to interference by an employer or any such group or association (arising out of the provision of financial or material support or by any other means whatsoever) tending towards such control'.*

2.2 The procedure for determining the independence of trade unions is laid down in Article 6 of the 1992 Order. The Certification Officer must keep a public record of all applications for certificates of independence and all decisions reached. He may not take a decision on any application until at least one month after it has been entered in the record and must take into account any relevant information submitted by third parties. He is required to give his reasons if he refuses a certificate of independence and the union concerned has a right of appeal to the High Court.

2.3 The Certification Officer may withdraw a certificate at any time if he is of the opinion that the trade union concerned is no longer independent. As in the case of a refusal, a trade union aggrieved by a decision to withdraw its certificate has a right of appeal to the High Court.

2.4 Where a question as to the independence of a particular union arises in proceedings before the courts, industrial tribunals or certain other bodies, and no certificate has been issued or refused, the 1992 Order provides that the proceedings may not continue further until that question has been decided by the Certification Officer.

Working methods

2.5 The working methods used by the Office in considering applications for certificates of independence mirror the practice established by the Certification Officer, 27 Wilton Street, London SW1X 7AZ. Essentially, they consist of a scrutiny of the applicant union's rules and finances followed, where necessary, by detailed investigation of the union's affairs.

Determining Criteria

- 2.6 The principal criteria used by the Certification Officer in determining whether or not an applicant union satisfies the statutory definition are explained in the Office's booklet *Guidance for trade unions wishing to apply for a certificate of independence* under the following headings:

- History
- Membership base
- Organisation and structure
- Finance
- Employer-provided facilities
- Negotiating record

Copies of the booklet are available on request from the Certification Office.

The Certification Officer reaches his decision on the basis of the criteria as a whole and, in doing so, is strictly bound by the statutory definition. He is not empowered to take into account other considerations such as the effect the issue of a certificate might have on industrial relations.

Procedure

- 2.7 An application for a certificate of independence must be made on the appropriate form and be accompanied by the statutory fee of £305*. The form - CO(NI)5 - can be obtained on request from the Certification Office.

Applications

- 2.8 Two applications for a certificate of independence were received during the period of this report.

Decisions

- 2.9 During the year three certificates of independence were issued, two of which were in respect of applications carried over from the previous year. One application remained outstanding at the end of the year.

*£720 from 30 April 1995.

Chapter 3

Annual Returns and Accounts

The requirements for trade unions and employers' associations to keep proper accounting records and to submit annual returns to the Certification Officer are set out in this chapter.

The statutory provisions

- 3.1 Article 10 of the 1992 Order provides that every trade union and employers' association whose head or main office is situated in Northern Ireland (except one which consists wholly or mainly of representatives of constituent or affiliated organisations) must keep proper accounting records in respect of its transactions, assets and liabilities, and must establish and maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and remittances. The accounting records kept must be such as are necessary to give a true and fair view of the state of affairs of the organisation and to explain its transactions.
- 3.2 Under Articles 11 and 12 of the Order every organisation (unless it has been in existence for less than 12 months) is also required to submit an annual return to the Certification Officer in the form prescribed. Schedule I of the Order provides that the return is to include revenue and other accounts and a balance sheet, which must give a true and fair view of the matters to which they relate. The return must also show any changes in the organisation's officers or in the address of its head office, and must be accompanied by a copy of the rules in force at the end of the period.
- 3.3 Schedule I prescribes that annual returns should be submitted before 1 June in each year and cover the year ending the preceeding 31 December. However, the Certification Officer may direct that the return is to relate to a different annual period, and this is usually done if the normal timetable would cause serious inconvenience to the organisation concerned.
- 3.4 Schedule I also stipulates that the annual return is to include a copy of the auditor's report on the accounts. It confers extensive powers on auditors, who must be professionally qualified unless the organisation's membership, assets, receipts and payments are below specified levels, or certain special circumstances apply. The Schedule contains detailed provisions about the qualifications, appointment and removal of auditors, and confers on them certain rights to have access to books and information, and to attend and speak at general meetings of the organisation.
- 3.5 The auditor must state whether, in his opinion, the accounts give a true and fair view of the matters to which they relate. He has a duty to carry out such investigations as will enable him to form an opinion on whether proper accounting records have been kept, whether a satisfactory system of control has been maintained and whether the accounts are in agreement with the accounting records. If, in his opinion, the statutory requirements have not been satisfied, or he fails to obtain all the necessary information and explanations, he must say so in his report.
- 3.6 Provided the period covered is the same and there is no significant diminution in the degree of disclosure, an employers' association incorporated under the Companies Orders may submit with its return, in lieu of the prescribed accounts, a copy of its accounts prepared under the Companies Orders and so avoid the duplication of broadly similar financial statements. In such circumstances, however, and notwithstanding anything in the Companies Orders, an auditor's report is still required to be made and this report must comply with the requirements of the 1992 Order.

3.7 With the exceptions already noted, the duties imposed by Articles 10 and 11 and by Schedule I apply to all trade unions and employers' associations, whether listed under Article 5 of the 1992 Order or not. Refusal or wilful neglect to perform any of them is an offence for which the organisation concerned may be prosecuted and fined. The Certification Officer is responsible for enforcing these provisions, but he is not empowered to carry out detailed investigations into the finances of trade unions or employers' associations or to undertake prosecutions for such offences as embezzlement or fraud which are dealt with under the ordinary criminal law.

Returns for 1994

3.8 Statistical information derived from the annual returns of trade unions and employers' associations for the year ended 31 December 1994 is given at Appendices 1-4.

Trade Unions

3.9 A summary of statistics concerning the membership and finances for 1994 of Northern Ireland based trade unions, and Republic of Ireland trade unions with Northern Ireland members, is given in Appendix 1. This shows a total of 43,121 members of NI unions providing an annual contribution of approximately £2.5m, while there are 13,683 NI members of ROI unions providing an annual contribution of approximately £1.2.

3.10 Details of GB based unions with 100 or more Northern Ireland members are given in Appendix 2. This shows a total of 180,810 NI members making an annual contribution of £10.6m which is approximately 1.8% of the total income of the unions listed.

3.11 Trade union income derives mainly from membership subscriptions and income from investments. There may also be additional income and assets arising if, for example, a union accepts the transfer of engagements of another union. In 1994 the gross income of NI trade unions was approximately £2.6m; gross expenditure was £2.4m.

Employers' associations

3.12 A summary of statistics concerning the membership and finances of Northern Ireland employers' associations for 1994 is given in Appendix 3. Details of GB based employers' associations with Northern Ireland members is given in Appendix 4.

Public inspection of annual returns

3.13 Copies of annual returns and rules of trade unions and employers' associations with Northern Ireland members are available for public inspection at the Certification Office.

Chapter 4

Superannuation Schemes

It is a legal requirement that any superannuation scheme maintained by a trade union or employers' association covering members must be subject to periodic actuarial examination and that a copy of the actuary's report must be sent to the Certification Officer.

The statutory provisions

4.1 The 1992 Order requires that any superannuation scheme maintained by a Northern Ireland based trade union or employers' association for its members must be examined periodically by a qualified actuary and a copy of each actuarial report sent to the Certification Officer. The actuarial examination is required to be made not later than five years after the effective date of the preceding examination, but the Certification Officer has power to direct that, in any particular case, the period of five years may be reduced to such shorter period as he may specify. The Certification Officer also has power to exempt a members' superannuation scheme from actuarial examination in certain circumstances. No trade union or employers' association may maintain a members' superannuation scheme unless it also maintains a separate fund for the payment of benefits in accordance with the scheme. A copy of the actuarial report made under the above provisions must be supplied free of charge to any member of the trade union or employers' association on application to the organisation concerned.

Actuarial reports

4.2 The statutory provisions require that the report by the actuary following his examination of any scheme shall state whether in his opinion the premium or contribution rates are adequate, whether the accounting or funding arrangements are suitable, and whether the separately maintained superannuation fund is adequate.

Schemes maintained

4.3 During the period of this report no trade union or employers' organisation based in Northern Ireland operated a superannuation scheme for its members.

Chapter 5

Mergers

Mergers between trade unions and between unincorporated employers' association must be conducted under the relevant statutory procedures; these procedures allow for members to complain to the Certification Officer about particular aspects of the balloting process. This chapter deals with the statutory background.

The statutory provisions

- 5.1 The 1992 Order and the Trade Unions and Employers' Associations (Amalgamations, etc) Regulations 1965 lay down procedures governing two types of merger - *transfers of engagements* and *amalgamations* - between trade unions and between unincorporated employers' associations. The procedures apply to listed and unlisted organisations. Their main purposes are to facilitate the processes of transfer and amalgamation and, at the same time, to safeguard the rights of members affected by the terms of a merger by ensuring that they are fully informed about the proposal and have the opportunity to vote on it.
- 5.2 Under a *transfer of engagements* the transferring organisation ('the transferor') loses its legal identity whilst the organisation to which it transfers ('the transferee') continues in being with its legal identity unchanged. An *amalgamation* produces a new organisation replacing the amalgamating bodies which cease to exist.
- 5.3 Organisations proposing to enter into a transfer of engagements or an amalgamation must prepare an instrument setting out the proposed terms of the merger and an explanatory notice to members. These documents are formally submitted to the Certification Officer and must have his approval before a ballot of members can be held to approve the instrument.
- 5.4 In a transfer of engagements only the members of the transferor organisation vote on the resolution to approve the instrument. An amalgamation requires a favourable vote by the members of each amalgamating organisation. If the required majority of votes recorded in each ballot is in favour of the merger, application to register the instrument is made to the Certification Officer.
- 5.5 An interval of six weeks must elapse between the application for registration and registration itself; and before the expiry of the six-week period any member of the transferor organisation or of any amalgamating organisation may complain to the Certification Officer on the grounds that one or more of the statutory conditions governing the ballot arrangements have not been observed. The Certification Officer may dismiss the complaint or if, after hearing both sides, he finds the complaint justified, he may either make a declaration but no order, or make an order specifying the steps which must be taken before he will register the instrument. There is a right of appeal against the Certification Officer's decision to the Court of Appeal on a question of law.

- 5.6 Formal documents kept by the Certification Officer relating to mergers under the Order are available for public inspection.

Advice on procedures

- 5.7 The Office's booklet *Mergers: a guide to the statutory requirements for transfers of engagements and amalgamations of trade unions and employers' associations* explains the merger procedures in detail and sets out, with explanatory notes, the matters to be included in an instrument of transfer or amalgamation. Copies may be obtained free of charge from the Office. The Office will offer advice where needed and is always prepared to meet officials of organisations proposing to merge to discuss procedures and time tables.

Mergers: 1994/95

- 5.8 One proposed transfer of engagements involving a Northern Ireland-based trade union and a Great Britain-based trade union was in progress at the end of the year. In Great Britain the Union of Communication Workers and the National Communication's Union merged on 25 January 1995 to form the Communication Workers' Union.

Complaints

- 5.9 No complaints were received during the period of this report.

Changes of name

- 5.10 Article 79 of the 1992 Order stipulates that a change of name of a listed trade union or employers' association, must be approved by the Certification Officer before it can take effect. Although the Northern Ireland Certification Officer did not receive any applications during the period of this report, the GB Certification Officer approved the changes of name of 5 trade unions and one employers' association with Northern Ireland members.

Trade Unions		Effective Date
From	Britannia Building Society Staff Association	
To	Britannia Staff Association	8.4.94
From	The Halifax Building Society Staff Association	
To	The Independent Union of Halifax Staff	21.4.94
From	Association of British Dental Surgery Assistants	
To	British Association of Dental Nurses	12.9.94

From	Abbey National Staff Association	
To	ANSA	19.10.94
From	Society of Union Employees (NUPE)	
To	Society of Union Employees (UNISON)	8.11.94
<u>Employer's Associations</u>		
From	British Scrap Federation	
To	British Metals' Federation	17.6.94

Chapter 6

Political Funds

The 1992 Order enables trade unions and unincorporated employers' associations to establish separate funds in furtherance of political objects as part of their aims. Under the terms of the Order a resolution to adopt political objects must be passed by a ballot of the members. The Certification Officer is the statutory authority for approving the establishment and continuance of such funds.

The statutory provisions for Northern Ireland based Organisations

- 6.1 The 1992 Order enables a trade union or an unincorporated employers' association, whether listed or not, to include the furtherance of political objects, as defined in the Order, among the objects of the organisation and to adopt political fund rules providing for the expenditure of funds on such objects. A resolution to adopt political objects must be passed by a simple majority in a ballot of the members held under rules approved by the Certification Officer. The rules governing the political fund must also be approved by the Certification Officer.
- 6.2 The Order requires the political fund rules to provide, among other things, that any payments in the furtherance of the political objects set out in the Order must be made out of a separate political fund; that contribution to the political fund must not be made a condition for admission to the organisation; and that members who do not wish to contribute to a political fund must not be excluded from any benefits of the organisation or placed under any disability or disadvantage compared with other members.
- 6.3 Unlike members in Great Britain, trade union members in Northern Ireland must 'contract in' to a political fund in their union.
- 6.4 Any member of a trade union with a political fund who alleges that he is aggrieved by a breach of the political fund rules may complain to the Certification Officer under Article 57(3) to (5) of the 1992 Order. If, after giving the complainant and the union an opportunity to be heard, the Certification Officer considers that a breach has occurred, he may make an order for remedying it. Under Article 70(4) of the 1992 Order an appeal against the decision of the Certification Officer may be made to the Court of Appeal on a question of law.
- 6.5 Part VIII of the Industrial Relations (Northern Ireland) Order 1992 requires trade unions and employers' associations which already have a political fund resolution in force and wish to continue to spend money on political objects, to renew the political fund resolution by a ballot of their members (a review ballot) at least once every 10 years. The review ballot must be held in accordance with rules approved by the Certification Officer.

- 6.6 Under Article 61 of the 1992 Order a member of a trade union can complain to the Certification Officer if a political fund ballot has been held, or is proposed to be held, in a way that does not comply with the rules for holding the ballot. Any complaint must be made within the period of one year beginning with the day on which the result of the ballot is announced by the union.
- 6.7 Any Northern Ireland member of a GB based trade union who wishes to complain about a breach of the statutory requirements relating to political funds, should contact the Certification Officer, 27 Wilton Street, London W1X 7AZ.

Political fund rules of GB based trade unions with Northern Ireland members

- 6.8 The following political fund model rule, covering Northern Ireland members, has been agreed with the GB Certification Officer for use by Great Britain unions with members in Northern Ireland, and is included in the booklet "Guidance for trade unions and employers' associations wishing to establish a political fund" issued by the GB Certification Office.

"NORTHERN IRELAND MEMBERS

In compliance with Article 58 of the Industrial Relations (Northern Ireland) Order 1992, members of the Northern Ireland Branch are not required to make any contribution to the political fund unless they -

- (a) have given notice in writing of their willingness to contribute to the fund; and
- (b) have not notified the union in writing of withdrawal of such notice.

Northern Ireland members are exempt from contributing to the political fund unless they give written notice that they wish to do so. A form of notice indicating the wish to contribute to the political fund may be obtained from the general office of the Northern Ireland Branch".

The Northern Ireland Certification Officer is likely to approve the use of this rule in the political fund rules of any Great Britain union. However, preliminary approval for its use should be sought at an early stage from the Northern Ireland Certification Officer.

Advice on procedures

- 6.9 On request the Office gives advice on the procedures for establishing political funds and for holding review ballots. An information pack including model rules is available free of charge. Any trade union or employers' association wishing to ballot its members on a political fund resolution should contact the Office at an early stage.

Northern Ireland organisations with political fund rules at 31 March 1995.

- 6.10 None

Chapter 7

Secret Postal Ballots For Trade Union Elections

The 1992 Order requires that members of a trade union's executive committee must be elected to it by secret postal ballot; if they remain in that position for more than five years they must be re-elected. Unions must also maintain a register of members and keep it up-to-date.*

The statutory provisions

- 7.1 Article 47 of the 1992 Order requires a trade union to ensure that no-one takes up a position as a member of the union's principal executive committee without having been elected to it, or remains in that position for more than five years without having been re-elected to it. Elections are required to be by secret postal* ballot of the members of the union, conducted in accordance with the conditions laid down in Part VII. In addition, every trade union must maintain a register of its members' names and addresses and, as far as reasonably practicable, keep the entries accurate and up-to-date.
- 7.2 Part VII of the 1992 Order also gives individual trade union members the right to apply to the Certification Officer, or to the High Court, for a declaration that their trade union has failed to comply with one or more provisions of that Part. Where an application is made to the Certification Officer, the 1992 Order requires him to make such enquiries as he thinks fit and, where he considers it appropriate, to give the applicant and the trade union an opportunity to be heard, before he makes or refuses to make the declaration asked for. In certain circumstances, expenses incurred by persons attending complaint hearings can be reimbursed by the Office.

- 7.3 If the Certification Officer makes a declaration and is satisfied that:

- (a) steps have been taken by the union with a view to remedying the declared failure or securing that a failure of the same, or similar kind, does not recur; or
- (b) the union has agreed to take such steps;

he will specify those steps.

Additionally, whether or not he makes a declaration, the Certification Officer must give reasons for his decision in writing and such reasons may be accompanied by written observations on any matter arising from, or connected with, the proceedings.

*Northern Ireland law contains provisions, in relation to voting in a ballot, which provide for reasons of personal safety a trade union member may request his union to send him a voting paper by some means other than by post.

7.4 The making of an application to the Certification Officer under Part VII of the 1992 Order does not prevent the applicant, or any other person, from making a subsequent application to the High Court under the section in respect of the same matter. Where a subsequent application is made, the High Court is required to have due regard to any declaration, reasons or observations of the Certification Officer which are brought to the notice of the Court.

Chapter 8

The 1992 Order provides for a scheme to be made for independent trade unions to claim a refund from the Certification Officer for certain costs of holding secret ballots for specified purposes held before 1 April 1996. Detailed conditions for administering the scheme are laid down in regulations. This chapter outlines which ballots qualify for assistance.

The statutory provisions

8.1 Article 102 of the Industrial Relations (Northern Ireland) Order 1992, empowers the Certification Officer to refund certain costs incurred by independent trade unions in holding secret ballots for specified purposes. These ballots must be conducted in secret and normally by post, although there is provision for workplace ballots in certain circumstances which are outlined in Article 103 of the Order. The conditions to be observed are laid down in a Scheme contained in Regulations made by the Department of Economic Development*.

Qualifying purposes

- 8.2 Regulation 4 of the 1992 Regulations provides that *in order to qualify for refund of certain costs* the ballot must be held for one or more of the following purposes:
- (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
 - (i) in relation to which Article 47 of the 1992 Order is required to be satisfied (that is, every member of a trade union's principal executive committee must be elected by secret postal ballot of the members at least once every five years); or
 - (ii) provided for by the rules of a trade union for elections to the principal committee of the union exercising executive functions, by whatever name it is known; or
 - (iii) provided by the rules of a trade union for elections to the positions of president, chairman, secretary or treasurer of the union or to any position which the person elected will hold as an employee of the union;

*The Funds for Trade Union Ballots Regulations 1992 (SI 1992 No 240).

- (c) amending the rules of a trade union;
- (d) obtaining a decision in accordance with Part X of the 1992 Order on a resolution to approve an instrument of amalgamation or transfer;
- (e) obtaining a decision on a political fund resolution for the purpose of Article 57 of the 1992 Order (this applies only in cases where a political fund resolution is already in force, that is to say, only in respect of a political fund review ballot);
- (f) 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 which relates in whole or in part to remuneration, hours of work, level of performance, holidays or pensions.

Conditions

- 8.3 An application for refund will qualify for payment if the ballot is secret and meets the requirements of the 1992 Order and relevant Regulations and is held for one or more of the qualifying purposes. The Certification Officer may not make any payments under the Scheme if he considers that any of the conditions have not been met or if any assurances asked for about observance of the conditions have not been given by the trade union concerned.

Guidance

- 8.4 Applications under the Scheme must be made within six months of the end of the voting period. The procedure for making an application is set out in the Office's booklet *Guidance for trade unions applying for refund of costs of a secret postal ballot* which is available from the Certification Office free of charge.

Applications

- 8.5 During the period of this report, two unions, the Northern Ireland Public Service Alliance and the Ulster Teachers' Union, made applications in respect of two ballots.
- 8.6 In each application, the amount refunded was less than the total applied for. Common reasons for reductions are;
- refund claimed for items outside the scope of the scheme eg scrutineer's fees, nomination forms, result sheets and election literature other than the enclosed with voting papers;
 - excessive printing and stationery costs.
- 8.7 The Certification Officer made payments totalling £26,058.88. A detailed breakdown of ballot payments is given in Appendix 5.

Future of the Scheme

- 8.8 In December 1992 the Government announced that the Scheme will cease to operate for ballots held on or after 1 April 1996. Although claims under the Scheme are being phased out in Great Britain - 1993/94 75%, 1994/95 50% and 1995/96 25% - qualifying claims in Northern Ireland will continue to be met in full by this office up to and including 31 March 1996.

Appendix 1

(see Paragraph 3.9)

List of Trade Unions with Headquarters in Northern Ireland and with Headquarters in the Republic of Ireland - at 31 December 1994

NORTHERN IRELAND UNIONS	NI Members	Total Members	NI Contr. -£	Total Income £000's	Total Expenditure Year £000's	Funds at the End of the Year £000's	Total Assets at the end of the Year £000's	Total Liabilities at the end of the Year £000's
Association of Principals of Colleges (NI)**		30	-	-	-	-	-	-
North of Ireland Bakers', Confectioners' and Allied Workers' Union*		1,004	46,962	50	52	70	75	5
Northern Ireland Musicians' Association		1,003	8,791	43	38	81	87	6
Northern Ireland Public Service Alliance *		35,176	2,079,409	2,144	2,039	2,721	2,785	64
Ulster Teachers Union *		5,908	340,500	365	318	518	536	18
TOTALS		43,121	2,475,662	2,602	2,447	3,390	3,483	93
REPUBLIC OF IRELAND UNIONS								
Irish Bank Officials' Association*	5,233	14,836	629,301	2,081	1,872	6,467	6,843	375
Irish National Teachers' Organisation*	5,334	20,137	410,801	4,304	4,013	3,677	4,759	1,082
Services, Industrial, Professional and Technical Union*	3,116	213,476	169,007	17,480	18,353	14,915	17,465	2,549
TOTALS	13,683	248,449	1,209,109	23,865	24,238	25,059	29,067	4,006

* Denotes a trade union holding a certificate of independence at 31 March 1995.

♦ Details of this Association's financial affairs are included in the figures for the GB Association of Principals of Colleges. They will be shown separately in the next return.

Appendix 2

(see Paragraph 3.10)

G.B. Trade Unions with 100 or more NI Members - 31 December 1994 (unless otherwise indicated)

	NI Members	GB Members	NI Contr. £	Total Income £000's	Total Expenditure £000's	Funds at the End of the Year £000's	Total Assets at the end of the Year £000's	Total Liabilities at the end of the Year £000's
Abbey National Staff Association	144	8,515	5,944(e)	481	480	253	315	62
Alliance & Leicester Building Society Staff Association	144	3,838	342	227	209	211	217	6
Amalgamated Engineering & Electrical Union	22,255	748,782	812,575	47,307	38,036	42,792	51,117	8,325
Association of First Division Civil Servants	383	9,212	43,692	1,234	1,156	746	870	124
◇ Association of Optometrists (at 12/5/94)	173	4,838	17,768	587	619	704	1,660	957
Association of Teachers & Lecturers	4,336	164,562	131,830	7,607	6,942	3,885	4,482	597
Association of University Teachers (11 month Period to 31/8/94)	1,403	33,224	103,079	2,588	2,334	3,139	3,386	248
Banking, Insurance and Finance Union	107	132,813	6,000(e)	7,160	7,885	4,079	4,800	722
British Actors Equity Association	369	42,377	18,099(e)	4,149	2,880	6,056	7,209	1,153
British Association of Occupational Therapists (at 30/9/94)	281	12,205	14,000	616	616	0	0	0
British Dental Association (at 30/9/94)	358	14,783	58,410	2,439	2,354	1,424	2,184	760
British Dietetic Association (at 28/2/95)	104	3,037	12,376	152	112	139	147	8
British Medical Association	2,542	86,851	390,747	43,554	39,175	33,852	50,982	17,130
Broadcasting, Entertainment, Cinematograph & Theatre Union	522	26,360	64,222(e)	3,556	3,390	1,285	2,573	1,288
Chartered Society of Physiotherapy	1,100	36,925	80,220	4,369	4,255	3,598	4,565	967
Ceramic and Allied Trades Union	125	22,278	4,950	1,477	1,164	5,870	5,988	119
Civil & Public Services Association	472	125,255	35,000	10,235	9,047	13,567	15,805	2,237
Commercial Union Group Staff Association	158	8,049	5,328	199	183	315	343	28
Communication Managers Association	231	13,031	24,699	1,516	1,544	2,058	2,127	69
Community and District Nursing Association (UK) (at 31/3/95)	143	4,304	9,660	284	231	49	69	20
Eagle Star Staff Union (1988)	105	5,072	4,347	258	260	57	148	91
Engineers and Managers Association	953	31,011	117,152	3,691	4,274	4,054	4,598	544
Fire Brigades Union	1,561	52,694	184,189	6,638	6,198	4,957	5,407	449
GMB	22,669	766,927	1,076,684	42,241	40,698	60,265	64,725	4,460
General Dental Practitioners Association	201	3,139	12,000	207	186	69	89	20
Graphical, Paper and Media Union (at 25/9/94)	2,390	218,818	36,603	26,797	31,355	38,780	43,485	4,705
Guinness Brewing Staff Association	155	443	4,435	26	26	36	41	5
Independent Union of Halifax Staff	237	17,013	7,574	948	1,009	394	866	472
Inland Revenue Staff Federation	1,279	53,434	83,142	4,706	4,696	6,227	6,374	146
Institution of Professionals, Managers & Specialists	324	80,664	37,571(e)	7,412	6,329	16,049	17,961	1,912

G.B. Trade Unions with 100 or more NI Members - Cont.

Appendix 2

	NI Members	GB Members	NI Contr.	Total Income	Total Expenditure	Funds at the End of the Year	Total Assets at the end of the Year	Total Liabilities at the end of the Year
			£	£000's	£000's	£000's	£000's	£000's
Manufacturing Science and Finance Union	10,716	449,804	482,000	22,175	23,773	12,124	28,682	16,558
National Association of Head Teachers	878	38,356	94,824	3,832	3,709	1,154	2,215	1,061
National Association of Probation Officers	128	7,253	20,753	1,036	989	539	610	70
National Association of Schoolmasters & UWT	11,503	199,270	452,368	9,165	7,450	13,712	14,147	435
National Association of Teachers in F & HE	1,910	69,422	145,328	5,956	6,197	3,011	5,526	2,516
# National Communications Union (at 24/1/95)	2,619	109,458	207,657	10,646	11,466	14,058	14,689	631
National Federation of Sub-Postmasters	603	13,995	28,380	895	826	1,836	1,958	122
National Union of Civil & Public Servants	524	108,872	47,134(e)	10,777	9,971	6,274	8,299	2,025
National Union of Insurance Workers	267	10,397	11,035	1,285	1,052	1,744	1,827	83
National Union of Journalists (at 30/9/94)	642	25,266	61,427	2,939	2,843	(680)	479	1,159
National Union of Knitwear, Footwear & Apparel Trades	325	46,216	19,853	3,588	3,213	8,655	8,849	194
National Union of Marine, A & ST Officers	283	18,332	32,432	1,892	1,796	3,988	4,345	357
National Union of Rail, Maritime & Transport Workers	216	67,682	14,015	7,663	11,134	9,361	14,304	4,943
Nationwide Group Staff Association	146	9,177	7,043	493	456	218	395	177
Prison Officers Association	2,980	24,837	274,555	2,578	2,895	775	2,275	1,499
Professional Association of Teachers	251	39,692	9,800(e)	1,582	1,550	510	1,135	625
Retained Firefighters Union	317	3,825	10,384	136	142	88	121	34
Royal College of Midwives	1,190	34,229	42,340	1,268	1,268	0	0	0
Royal College of Nursing of the UK (at 31/3/95)	10,437	286,128	424,525	12,207	12,207	0	0	0
Secondary Heads Association	140	8,196	17,838	1,369	1,240	441	1,041	600
Society of Chiropodists and Podiatrists	194	5,652	28,019	1,095	918	1,443	1,564	121
Society of Radiographers (at 30/9/94)	359	11,800	19,397(e)	720	841	(64)	142	206
Society of Telecom Executives	336	20,096	48,616	3,149	3,140	4,999	5,272	273
Transport & General Workers Union	33,294	852,722	2,158,556	57,804	56,426	57,601	66,485	8,884
Transport Salaried Staff Association	459	34,751	37,664	3,929	3,194	13,849	14,134	286
# Union of Communication Workers (at 24/1/95)	3,435	153,960	287,500	18,895	20,938	10,762	11,398	636
Union of Construction Allied Trades & Technicians	1,950	96,389	57,619	4,587	5,218	51	2,720	2,669
Unison	23,121	1,345,675	1,872,800	163,775	173,144	80,082	97,769	17,687
Union of Shop, Distributive & Allied Workers	6,368	276,448	346,333	13,582	12,751	17,143	17,518	375
TOTALS	180,810	7,097,863	10,662,833	601,679	598,435	518,584	630,432	111,850

◇ Ceased to be a trade union on 12 May, 1994

Merged to form the Communication Workers Union on 25 January, 1995

(e) Estimated

Appendix 3

(see Paragraph 3.12)

Northern Ireland Employers' Associations - 31 December 1994 (unless otherwise indicated)

NI Employers' Associations	Members	Total Income £	Total Expenditure £
Anglo-North Irish Fish Producers Organisation (at 31/7/94)	64	64,840	54,695
Association of Local Authorities of Northern Ireland (at 31/3/95)	21	124,546	108,903
Belfast County Vintners' Association (at 31/8/94)	59	2,437	1,877
Construction Employers Federation Ltd.	445	456,122	459,767
Engineering Employers Federation NI Association	131	260,000	252,000
The Hospitality Association	212	75,447	74,864
The Lough Neagh Fishermen's Association	378	18	329
Northern Ireland Bakery Employers' Council	8	31,200	30,719
Northern Ireland Fish Producers Organisation Ltd.	178	550,642	581,832
Northern Ireland Grain Trade Association Ltd.	36	18,102	18,122
Northern Ireland Timber Trade Association	18	4,375	5,356
Radio & Television Retailers Association	37	4,380	3,738
Ulster Chemists Association	489	45,338	39,305
Ulster Farmers' Union (at 31/3/95)	12,683	703,820	693,110
Ulster Launderers Association	6	455	428
TOTALS	14,765	2,341,722	2,073,297

Appendix 4

(see Paragraph 3.12)

GB Employers' Associations with NI Members - 31 December 1994 (unless otherwise indicated)

GB Employers' Associations with NI Members	NI Members	NI Contribution £	Total Members	Total Income £	Total Expenditure £
Association of Newspapers and Magazine Wholesalers (at 31/3/95)	1	400	21	70,819	93,774
British Amusement Catering Trades Association (at 30/9/94)	1	220	1,250	649,763	548,796
British Brush Manufacturers Association (dissolved 31/12/94)	1	1,192	51	32,316	40,767
British Coatings Federation Ltd.	1	Not Known	132	871,483	275,882
British Metals Federation*	5	1,430	237	254,498	251,602
British Pre-Cast Concrete Federation Ltd.	1	660	83	286,780	307,072
British Soft Drinks Association	5	30,000	145	1,054,552	920,898
Chemical Industries Association (at 30/6/95)	2	Not Known	176	4,991,000	5,031,000
Construction Plant Hire Association (at 30/6/94)	2	900	923	448,441	467,296
Federation of Master Builders	435	73,878	16,701	3,287,609	3,432,305
Freight Transport Association	166	40,269	11,473	11,768,795	11,473,315
Glass and Glazing Federation	25	9,584	452	1,242,350	1,178,684
Heating & Ventilating Contractors' Association (at 28/2/95)	29	17,839	1,152	8,265,051	8,134,298
National Engineering Construction Employers Association	1	740	325	1,650,650	1,258,574
National Federation of Master Window and General Cleaners	13	349	1,939	86,404	59,267
National Federation of Retail Newsagents	989	150,525	27,238	4,735,006	4,578,872
National Association of Shopkeepers & Self Employed of Great Britain and Northern Ireland	584	27,475	1,667	72,934	86,840
National Federation of Roofing Contractors Ltd. (at 31/1/95)	14	5,290	629	440,223	439,662
National Hairdressers Federation	9	693	5,092	563,054	534,949
National Sawmilling Association	4	Nil	60	409	414
Publishers Association	3	689	169	1,382,815	1,320,215
Radio, Electrical and Television Retailers' Association (at 31/10/94)	3	383	1,369	315,967	299,350
Retail Motor Industry Federation Ltd.	353	83,724	12,741	6,938,000	6,991,000
Scottish Association of Master Bakers	3	150	620	199,996	177,797
Scottish & NI Plumbing Employers' Federation	108	15,230	856	381,329	359,140
Screen Printing Association (UK) Ltd. (at 31/10/94)	4	1,160	170	95,926	86,282
Textile Services Association	2	1,054	193	439,984	433,494
UK Jute Goods Association	1	125	33	3,977	2,866
TOTALS	2,765	463,959	85,897	50,530,131	48,784,411

* Formerly known as the British Scrap Federation. Change of title effective from 17 June 1994.

Appendix 5

(see Paragraph 8.7)

Refund of Costs of Secret Postal Ballots for the Period 1 April 1994 to 31 March 1995

Trade Union	Reason for Ballot	Amount Paid £	Date Paid
Northern Ireland Public Service Alliance	Election	24,051.32	31/5/94
Ulster Teachers' Union	Election	2,007.56	30/12/94

Appendix 6

Statutory Fees Applicable From 30 April 1995

Fees are calculated to represent the full cost of providing each service

	Current Fee
Application for entry in the list of trade unions	£50
Application for entry in the list of employers' associations	£50
Application for approval of a change of name	£50
Application for a certificate of independence	£720
Application for formal approval of an instrument of transfer of engagements or an instrument of amalgamation	£950
Inspection of merger documents	£35

Appendix 7

List of Certification Office Forms

TITLE	Form No:
Application for entry in the list of trade unions	CO(NI)1
Application for entry in the list of employers' associations	CO(NI)2
Application for approval of a change of name	CO(NI)3
Declaration in support of an application of a change of name	CO(NI)4
Application for a certificate of independence	CO(NI)5
Application for formal approval of instrument of transfer or engagements	CO(NI)6
Application for formal approval of a notice to members in connection with a transfer of engagements	CO(NI)7
Application for formal approval of an instrument of amalgamation	CO(NI)8
Application for formal approval of a notice to members in connection with an amalgamation	CO(NI)9
Application for the registration of an instrument of transfer of engagements	CO(NI)10
Statutory declaration on behalf of the transferor organisation in support of the registration of an instrument of transfer of engagements	CO(NI)11
Statutory declaration on behalf of the transferee organisation in support of the registration of an instrument of transfer of engagements	CO(NI)12
Application for registration of an instrument of amalgamation	CO(NI)13
Statutory declaration in support of an application for the registration of an instrument of amalgamation	CO(NI)14
Application for the refund of cost secret postal ballot	CO(NI)30
Application for the approval of amendment(s) to political fund rules	PF(NI)1
Application for the approval of rules for political fund	PF(NI)2
Application for approval of rules for political fund ballot or political fund	PF(NI)4
Return of result of political fund ballot	PF(NI)5

Appendix 8

Certification Office Publications

The following Certification Office booklets are available free of charge on request:

1. *Mergers: a guide to the statutory requirements for transfers of engagements and amalgamations of trade unions and employers' associations.*
2. *Guidance for trade unions wishing to apply for a certificate of independence.*
3. *Guidance for trade unions applying for refund of costs of a secret postal ballot.*
4. *Guidance for trade unions and employers' associations wishing to establish a political fund.*
5. *A guide to political fund review ballots.*
6. *Annual Reports of the Certification Officer.*