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*Status: Point in time view as at 01/01/2006.*

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## STATUTORY INSTRUMENTS

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# 1992 No. 807

## The Industrial Relations (Northern Ireland) Order 1992

### PART IX

#### THE CERTIFICATION OFFICER AND THE COMMISSIONER FOR THE RIGHTS OF TRADE UNION MEMBERS

##### *The Certification Officer for Northern Ireland*

#### **The Certification Officer for Northern Ireland**

**69.**—(1) The Department shall, after consultation with the Agency, appoint an officer to be known as the Certification Officer for Northern Ireland (in this Order referred to as “the Certification Officer”).

(2) The Certification Officer shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

(3) The Agency shall—

- (a) provide for the Certification Officer the requisite staff (from among the Agency's officers and servants) and the requisite accommodation, equipment and other facilities; and
- (b) pay to the Certification Officer such remuneration and travelling and other allowances as may be determined by the Department with the approval of the Department of Finance and Personnel.

(4) The Department may pay, or make provision for paying, to, or in respect of, the Certification Officer such pension, allowance or gratuity on his death or retirement as the Department may, with the approval of the Department of Finance and Personnel, determine.

(5) The Agency shall pay to the Certification Officer such sums as he may require<sup>[F1]</sup> for the performance of any of his functions].

(6) Where a person ceases to be the Certification Officer otherwise than on the expiry of his term of office, and it appears to the Department that there are special circumstances which make it right for him to receive compensation, the Department may make him a payment of such amount as the Department may, with the approval of the Department of Finance and Personnel, determine.

(7) The Certification Officer shall, as soon as reasonably practicable after the end of each financial year, make a report of his activities during that year to the Agency and the Department and the Department shall lay before the Assembly a copy of every report received by it under this paragraph.

<sup>[F2]</sup>(8) The Certification Officer—

- (a) may appoint one or more assistant certification officers; and
  - (b) may delegate to an assistant certification officer such functions as he thinks appropriate;
- and references to the Certification Officer in any statutory provision relating to his functions shall be construed accordingly.]

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(9) The Certification Officer shall take custody of all annual returns, accounts, copies of rules and other documents submitted, for the purposes of the Trade Union Acts (Northern Ireland) 1871 to 1965, to the officer appointed to perform in Northern Ireland the functions of registrar of friendly societies and which are, immediately before the appointed day, in the custody of that officer.

(10) The Certification Officer shall keep available for public inspection (either free of charge or on payment of a reasonable charge) at all reasonable hours such of the documents referred to in paragraph (9) as are, or were, available for public inspection in pursuance of any of the Acts referred to in that paragraph.

(11) In the Northern Ireland Assembly Disqualification Act 1975<sup>F3</sup> in Part III of Schedule 1 (other disqualifying offices), there shall be inserted (at the appropriate place) the following entry—  
“Certification Officer for Northern Ireland.” .

<b>F1</b>	1995 NI 12
<b>F2</b>	2003 NI 15
<b>F3</b>	1975 c.25

### Procedure before, and appeals from, Certification Officer

**70.**—(1) Except in relation to matters as to which express provision is made by or under any statutory provision, the Certification Officer may regulate the procedure to be followed—

- (a) on any application or complaint made to him; or
- (b) where his approval is sought with respect to any matter;

<sup>F4</sup> . . .

[<sup>F5</sup>(1A) He shall in particular make provision about the disclosure, and restriction of the disclosure, of the identity of an individual who has made or is proposing to make any such application or complaint.

(1B) Provision under paragraph (1A) shall be such that if the application or complaint relates to a trade union—

- (a) the individual's identity is disclosed to the union unless the Certification Officer thinks the circumstances are such that it should not be so disclosed;
- (b) the individual's identity is disclosed to such other persons (if any) as the Certification Officer thinks fit.]

(2) The Department, with the approval of the Department of Finance and Personnel, may by scheme make provision for the payment by the Certification Officer to any persons of such sums as may be specified in or determined under the scheme in respect of expenses incurred by those persons for the purposes of, or in connection with, their attendance at hearings held by the Certification Officer in the course of carrying out his functions.

*Para. (3) rep. by 2004 NI 19*

[<sup>F5</sup>(4) An appeal lies to the Court of Appeal on any question of law arising in proceedings before or arising from any decision of the Certification Officer under—

- (a) Article 13C[<sup>F6</sup> 37 or 70ZA] of this Order;
- (b) Article 5, Article 22, Part V, Article 84 or Part VIA of the Trade Union and Labour Relations (Northern Ireland) Order 1995.]

<b>F4</b>	1999 NI 9
<b>F5</b>	1999 NI 9

F6 2004 NI 19

## [<sup>F7</sup>Striking Out

**70ZA.**—(1) At any stage of the proceedings on an application or complaint made to the Certification Officer, he may—

- (a) order the application or complaint, or any response, to be struck out on the grounds that is scandalous, vexatious, has no reasonable prospect of success or is otherwise misconceived,
- (b) order anything in the application or complaint, or any response, to be amended or struck out on those grounds, or
- (c) order the application or complaint, or any response, to be struck out on the grounds that the manner in which the proceedings have been conducted by or on behalf of the applicant or on behalf of the applicant or complainant or (as the case may be) respondent has been scandalous, vexatious, or unreasonable.

(2) The Certification Officer may order an application or complaint made to him to be struck out for excessive delay in proceeding with it.

(3) An order under this Article may be made on the Certification Officer's own initiative and may also be made—

- (a) if the order sought is to strike out an application or complaint, or to amend or strike out anything in an application or complaint, on an application by the respondent, or
- (b) if the order sought is to strike out any response, or to amend or strike out anything in any response, on an application by the person who made the application or complaint mentioned in paragraph (1).

(4) Before making an order under this Article, the Certification Officer shall send notice to the party against whom it is proposed that the order should be made giving him an opportunity to show cause why the order should not be made.

(5) Paragraph (4) shall not be taken to require the Certification Officer to send a notice under that paragraph if the party against whom it is proposed that the order under this Article should be made has been given an opportunity to show cause orally why the order should not be made.

(6) Nothing in this Article prevents the Certification Officer from making further provision under Article 70(1) about the striking out of the proceedings on any application or complaint made to him.

(7) In this Article—

“response” means any response made by a trade union or other body in the exercise of a right to be heard, or to make representations, in response to the applicant or complaint;

“respondent” means any trade union, or other body, that has such a right.]

F7 2004 NI 19

## Vexatious litigants

**70A.**—(1) The Certification Officer may refuse to entertain any application or complaint made to him under a provision of—

- (a) this Order; or
- (b) Parts II to VIA of the Trade Union and Labour Relations (Northern Ireland) Order 1995,

by a vexatious litigant.

(2) The Certification Officer must give reasons for such a refusal.

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(3) Paragraph (1) does not apply to a complaint under Article 12E(1)(b) or to an application under Article 5 or 6 or paragraph 30 of Schedule 1.

(4) For the purposes of paragraph (1) a vexatious litigant is a person who is the subject of—

- (a) an order which is made under section 32 of the Judicature (Northern Ireland) Act 1978,
- (b) an order which is made under section 33(1) of the Industrial Tribunals Act 1996 and which remains in force,
- (c) a civil proceedings order or an all proceedings order which is made under section 42(1) of the Supreme Court Act 1981 and which remains in force, or
- (d) an order which is made under section 1 of the Vexatious Actions (Scotland) Act 1898.

**[<sup>F8</sup>Vexatious litigants: applications disregarded**

**70B.**—(1) For the purposes of a relevant enactment an application to the Certification Officer shall be disregarded if—

- (a) it was made under a provision mentioned in the relevant enactment, and
- (b) it was refused by the Certification Officer under Article 70A(1).

(2) The relevant enactments are—

- (a) Articles 13C(5B) and 37(8D); and
- (b) Articles 6(8), 23(8), 46A(10), 56(8) and 90A(14) of the Trade Union and Labour Relations (Northern Ireland) Order 1995.]

**F8** 1999 NI 9

*Arts. 71—73 rep. by 1995 NI 12*

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