

BIS | Department for Business
Innovation & Skills

TRADE UNION EXECUTIVE ELECTIONS

A guide for trade unions, their
members and others

2010

SCOPE OF ELECTION REQUIREMENTS.....	5
WHEN ELECTIONS MUST TAKE PLACE	8
WHO CAN STAND AS A CANDIDATE?.....	9
KEEPING A REGISTER OF UNION MEMBERS.....	10
BALLOTING ARRANGEMENTS.....	11
WHO CAN VOTE?.....	14
INDEPENDENT SCRUTINY OF ELECTIONS.....	16
THE INDEPENDENT PERSON.....	20
THE DUTY OF CONFIDENTIALITY	22
ENFORCEMENT AND COMPLAINTS	23
APPENDIX 1.....	26
APPENDIX 2.....	27
APPENDIX 3.....	28

Introduction

Since October 1985, the law has required a trade union to elect every voting member of its governing body at least every five years by secret ballot of the union's members. It has also required a union to keep an accurate register of its members' names and addresses.

The statutory election requirements were extended from 26 July 1989 to cover a trade union's general secretary, president, and non-voting members of the governing body.

This document describes the statutory requirements which apply to trade union elections, and the remedies available to a trade union member if his union fails to comply with these requirements.

This document is designed to give trade unions, their members and others a general understanding of the relevant statutory requirements, and rights given to members. It gives general guidance only and is not a substitute for professional legal advice. Authoritative interpretations of the law can only be given by the courts.

The contents of this document apply equally to men and to women but, for simplicity, the masculine pronoun is used throughout. "Court" means the High Court in England and Wales and the Court of Session in Scotland, except where otherwise indicated.

SCOPE OF ELECTION REQUIREMENTS

Who must be elected?

Subject to the exemptions described below, the statutory election requirements apply to an individual who:

- holds the position of **president** of a union or, if the union has no such position any equivalent position; or
- holds the position of **general secretary** of a union or, if the union has no such position, the position which is the equivalent or nearest equivalent to that of general secretary; **or**
- is, under the rules of the union, a member of the union's executive; or
- is entitled, under the rules of the union or by custom and practice, to speak at some or all meetings of the executive. **However**, if the purpose of attending meetings is simply to provide the executive with factual information, or with technical or professional advice on matters which the executive takes into account in carrying out its functions, there is no statutory requirement for that person to be elected.

What is the 'executive' of a trade union?

This is defined as the 'principal committee of the trade union exercising executive functions, by whatever name it is known'. In short this means the highest committee within the union concerned with running its affairs. In many unions this committee is known as the National Executive Committee or the National Executive Council, but this is not always the case.

What are the exemptions?

Certain trade unions are exempted from the election requirements and there are other cases in which the statutory requirements do not apply in the way described above. These are set out below.

Trade union federations

Certain trade unions which are federations are exempted from the election requirements. If a trade union federation has any **individuals** as members, then it is covered by the statutory election requirements, but a federation which consists entirely of other unions (or of their representatives) need not comply with the requirements.

New unions

A trade union is exempted from the statutory requirements on elections (and on keeping a register of members) for the first year of its life. The year is

counted from the date on which the first members of the union's principal executive committee are appointed or elected.

Union amalgamations and transfers of engagement

When a union amalgamates with, or when it transfers its engagements to (in other words, is 'taken over' by), another union, executive members of the 'old' union may become members of the 'new' union's executive. In the case of 'mergers' of either sort, an individual who was an elected member of the executive of the 'old' union will **not** have to be elected until the later of:

- five years from the date of his election to that executive; **or**
- one year from the date on which the amalgamated union was formed or from the date of the transfer of engagements.

This means that an elected executive member of an 'old' union who became a member of the 'new' union's executive is **able to hold office for at least as long as he would have held office if there had been no merger.**

Special register bodies

Special register bodies are required **only** to satisfy the statutory election requirements concerning the election of **voting** members of their executives. There are only a small number of special register bodies. They are mainly professional organisations which are trade unions but are also registered under the Companies Act or incorporated by charter or letters patent.

Certain general secretaries and presidents

General secretaries and presidents whose position is effectively ceremonial do not need to be elected if:

- the individual is not a voting member of the executive, nor an employee of the union; **and**
- the rules of the union limit the period of office to thirteen months or less; **and**
- the individual has not held the position of general secretary or president in the twelve months before taking up his current position.

Presidents do not need to be elected if their appointment as president is in accordance with the union's rules and they have been properly elected to the union's executive or as its general secretary within the last five years.

Trade union leaders approaching retirement

There is exemption from the statutory re-election requirements for all elected executive members who are nearing retirement age. ("Retirement age" is the earlier of the statutory retirement age or retirement age under union rules).

The exemption allows a member of a union's principal executive committee to remain in post for longer than five years (but not beyond retirement age) without being re-elected if he meets all of the following conditions:

- he must have been elected not more than ten years before retirement age;
- he must be a full-time employee of the union and have been so for at least ten years (but not necessarily consecutively);
- he must be within five years of retirement age; **and**
- he must be entitled under his union's rules to remain in post until retirement age without standing for re-election.

WHEN ELECTIONS MUST TAKE PLACE

All those covered by the statutory election requirements must, subject to the exemptions described in section Scope of the election requirements be elected at least once every five years. A union may, if it chooses, elect them more frequently than this. But **each** of them must have been elected at an election which complied with the law's requirements during the preceding five years.

Following an election, the outgoing holder of a post may remain in post for a reasonable hand-over period. This period cannot, however, be longer than six months.

WHO CAN STAND AS A CANDIDATE?

The law gives every union member the right not to be unreasonably excluded by his union from standing in those elections which are required by statute. But a trade union may exclude specific classes of union member from standing as candidates provided that this is done in accordance with the union's rules. For example, union rules may set upper and lower age limits on candidature or require a minimum period of membership. Unions cannot, however, by their rules or otherwise, require candidates, either directly or indirectly, to belong to a political party.

If a union member thinks he has been unreasonably excluded from standing as a candidate for his union's executive committee or for the positions of general secretary or president of the union, he should ask himself the following questions:

- do I belong to a class of union member all of whom are excluded from standing in such an election under the union's rules?
- does the union have reasonable grounds for excluding me as an individual from standing as a candidate?

If the answer to either of these questions is 'yes', then he has not been unreasonably excluded from candidature. ¹ If the answer to both questions is 'no', then he may have grounds for complaint.

Disqualification from holding office

Individuals are disqualified from holding a position to which the statutory election requirements apply if they have been convicted of certain offences relating to trade union financial affairs. The disqualification period is for five or ten years depending on the nature of the offence, and it is the duty of the trade union not to allow a disqualified person to occupy one of the relevant positions. For further details see Trade union funds and accounting records - Guidance.

¹ A member excluded from standing because he does not contribute to his union's political fund will not have been unreasonably excluded from standing under the terms of the relevant legislation but the union will have acted in breach of its political fund rules and the member will have a right of complaint to the Certification Officer.

KEEPING A REGISTER OF UNION MEMBERS

The law requires trade unions to keep, by computer or otherwise, a register of their members' names and 'proper addresses'. (A member's 'proper address' is defined as his home address or any other address which he has requested the union in writing to treat as his postal address.) A union must also ensure, so far as is reasonably practicable, that the entries in the register are accurate and are kept up to date.

Trade unions which are branches of larger trade unions need not keep a register so long as their members' names and addresses are entered on the register of the parent union.

Unions must also:

- allow any member who has given reasonable notice to check, free of charge and at any reasonable time, whether he is included on the register; **and**
- supply any member on request with a copy of his register entry. This must be done as soon as reasonably practicable after the union has received the request, either free of charge or on payment of a reasonable fee; **and**
- include in their annual return to the Certification Officer (a copy of which must be supplied to any person on request) a statement showing the number of names on the register at the end of the period to which the return relates, together with the number of names which are not accompanied by a proper address.

BALLOTING ARRANGEMENTS

Trade unions must ensure that any election to which the statutory requirements apply, except one which is uncontested, meets all of the requirements set out below:

- the election must be held under independent scrutiny ;
- certain tasks relating to the ballot must be carried out by an independent person;
- before the scrutineer begins to carry out his functions the union must either (i) send a notice stating the scrutineer's name to every member to whom it is reasonably practicable to do so, or (ii) take whatever steps to notify members of the scrutineer's name as is the practice of the union when matters of general interest are brought to the attention of members;
- all candidates in elections to a union's executive must be given the opportunity of preparing an election address and having it distributed;
- all those entitled to vote must be given equal voting rights;
- voting must be by the marking of a ballot paper and, so far as is reasonably practicable, in secret;
- every elector must be allowed to vote without interference or constraint (for example, intimidation) on the part of the union or any of its members, officials or employees;
- every elector must, so far as is reasonably practicable, be sent a ballot paper by post and be given a convenient opportunity to return it by post;
- every elector must, so far as is reasonably practicable, be allowed to vote without any direct cost to himself (this means, for example, that the trade union must meet the postage costs of returning ballot papers by post);
- the names of all candidates in the election must either be printed on the ballot paper or sent to every voter on a separate piece of paper along with his ballot paper;
- each voting paper used in the ballot must state the name of the independent scrutineer and specify the address to which, and the date by which, it is to be returned; and be marked with a different serial number. These must be whole numbers and be drawn from a series all of which are used in numbering the voting papers;
- every individual who is covered by the statutory election requirements must be elected **directly** by the union's members (this means that a person cannot be elected by, for example, conference delegates or regional committee members);

- 'block vote' systems of voting must not be used (this means in particular that only individual votes actually cast for each candidate may count towards the election result);
- the votes cast must be fairly and accurately counted (although any accidental inaccuracy in counting may be disregarded if it is on a scale which would not affect the result of the election).

ELECTION ADDRESSES

The law provides that candidates in a trade union election which is required to be held by statute shall have the right to prepare an election address and have it sent out with the voting papers at no cost to themselves.

What does the law require a union to do?

(i) preparation and submission to the union of an election address

The union:

- **must** give each candidate in the election the opportunity to prepare an election address in his own words and submit it to the union for distribution with the voting papers;
- **must** ensure, so far as reasonably practicable, that any facilities and restrictions concerning the preparation, submission and length of election addresses are provided or applied equally to all candidates;
- **may** specify that the address must not exceed a particular length - but candidates **must** be allowed a *minimum* of 100 words;
- **may** specify if, and to what extent, election addresses may contain photographs and other material not in words;
- **may** set a deadline for the receipt of election addresses from candidates - but this must not be earlier than the latest time at which a person may become a candidate.

When a union does not impose a limit on the number of words, or on the incorporation of other material, each candidate is free to determine such matters for himself.

(ii) production of copies of election addresses

The union:

- **must** ensure that candidates do not have to bear any of the costs of producing copies of election addresses;
- **must** not change an election address submitted to it unless:
 - the candidate requests the change or agrees to it, or

- the change is a necessary part of the production process;
- **must** ensure that the same method of producing copies is applied in the same way to all election addresses;
- **must**, so far as reasonably practicable, ensure that no facility or information which would enable a candidate to gain a benefit from the method of producing copies or from any necessary modifications, is provided to any candidate without being provided equally to all the others.

(iii) distribution of election addresses

The union:

- **must**, so far as reasonably practicable, ensure that copies of every election address received before any deadline set are sent by post, with the voting papers, to all the members who are entitled to vote in the election.

Is the union legally liable for the contents of election addresses?

Any civil or criminal liability in respect of publishing or copying an election address which has been prepared in accordance with the statutory requirements described above, rests **solely with the candidate concerned**.

WHO CAN VOTE?

The general principle is that every member of a trade union must be allowed to vote in elections for members of the union executive and those other offices which are required by statute.

But there are certain groups of trade union members who need not be given the right to vote provided that this is in accordance with the union's rulebook. These groups are:

- members who are not in employment;
- members who are in arrears with their union dues;
- members who are apprentices, trainees or students;
- new members of the union (for example, members of less than three months' standing).

If a union decides to exclude any of these groups from voting, then it is up to the union in its rules to decide whether to exclude the whole group or only part of it. For example, a union's rules may say that no members who are in arrears with their union dues may vote in elections. Alternatively, the rules may remove the right to vote only from those members who are more than a certain period in arrears - perhaps three months.

If a union member does not fall into one of these groups, then he must be given the right to vote in elections for his union's executive. But not **every** union member need necessarily be allowed to vote for **every** member of the union executive. A trade union is entitled to divide its membership into constituencies, each of which may elect one or more executive members (rather as the United Kingdom is divided into constituencies for a General Election). However, any such arrangement must be in accordance with the union's rules.

What kinds of electoral constituencies can a union have?

Unions may divide up their membership by:

- geographical area (for example: Scotland, Wales, North of England, South of England);
- trade or occupation;
- section (where a union consists of two or more separate sections);
- any combination of the above.

Overseas members

Unions are free to choose whether or not to give overseas members a vote but if they do so, **all** the requirements set out in this document (i.e. balloting arrangements, election addresses and independent scrutiny) will apply. Members in Northern Ireland or elsewhere outside Great Britain throughout a union election are treated as overseas members unless they are merchant seamen or offshore workers.

INDEPENDENT SCRUTINY OF ELECTIONS

The law:

- requires that union election ballots which are required to be held by statute must be supervised by an independent scrutineer appointed by the union;
- sets out the requirements a union needs to satisfy in appointing an independent scrutineer, what the appointment must require the scrutineer to do, certain matters which must be contained in the scrutineer's report, and the arrangements for circulating that report to union members; **and**
- gives the Secretary of State power to specify by statutory order bodies which may act as independent scrutineers and the qualifying conditions which other scrutineers must meet.

What must the union do?

The union must:

- before the ballot takes place, appoint a qualified independent scrutineer to carry out the functions described below and any additional functions it wishes;
- ensure that nothing in the scrutineer's terms of appointment, or in any additional functions which the union requires him to perform, could cast reasonable doubt on his independence from the union;
- before the scrutineer begins to carry out his functions, either (i) send a notice stating the scrutineer's name to every member of the union to whom it is reasonably practicable to do so, or (ii) take whatever steps to notify members of the scrutineer's name as is the practice of the union when matters of general interest are brought to the attention of members;
- impose a duty of confidentiality (see section The duty of confidentiality) on the scrutineer;
- supply to the scrutineer a copy of the register containing the names and addresses of those who are entitled to vote in the election. (Where the register is held on computer the union must supply the copy in computerised form - for example on a disc - if the scrutineer prefers it this way and give him access to its computer, at any time during the period he is required to retain the copy, so that he can read it);
- comply with any request made by the scrutineer to inspect the union register as it stands at any particular time;
- ensure that the scrutineer carries out the functions he is appointed to carry out and that there is no interference with his carrying out of those functions

which could cast reasonable doubt on his independence from the union;
and

- comply with all reasonable requests made by scrutineer in connection with the carrying out of his functions.

Who can be an independent scrutineer?

The law provides that an independent scrutineer must:

- be specified, or satisfy conditions set out by the Secretary of State, in a statutory instrument; and
- be someone who the union has no reason to believe will carry out his functions incompetently or could reasonably have his independence in relation to the union or the election called into question.

The bodies which have been specified as eligible for appointment as scrutineers are listed in Appendix 1 and the general qualifying conditions are set out in Appendix 2. Unions are free to appoint either a specified body or an individual or firm which satisfies the general conditions. Both the list of specified bodies and the qualifying conditions may be revised from time to time by Statutory Order made by the Secretary of State.

What must the independent scrutineer do?

The independent scrutineer must be required by the union to:

- supervise the production of all the voting papers used in the ballot;
- supervise the distribution of the voting papers used in the ballot - unless the scrutineer is also the independent person (see section The independent person) and is therefore responsible himself for their distribution;
- be the person to whom the voting papers are returned by the union members who take part in the ballot;
- inspect the union's membership register, whenever he considers it appropriate to do so and, in particular, when a union member or candidate requests that he do so². The scrutineer does not, however, have to act on a request that he considers to be ill-founded.
- take whatever steps he considers necessary to enable him to produce a report on the conduct of the ballot (see below);

² Such a request must be made within the period beginning with the first day on which a person may become a candidate in the election or, if later, the day on which the scrutineer is appointed, and ending with the day before the day on which the scrutineer makes his report to the trade union.

- make that report to the union as soon as reasonably practicable after the closing date for the return of voting papers;
- retain custody of all returned voting papers, and the copy of the register with which the union has supplied him (see above), for a period of one year following the announcement of the result of the ballot or, if a complaint is made about the conduct of the ballot, for any longer period that the Certification Officer or a court may require; **and**
- carry out any additional functions that the union requires him to undertake.

The scrutineer must also have regard to the duty of confidentiality (see section The duty of confidentiality) that the union must impose upon him (and which is also automatically incorporated into his appointment).

The union is free to specify the exact nature of any additional functions so long as these do not conflict with the functions described above. A union could, for example, require the scrutineer to carry out all parts of the balloting process.

What must be included in the independent scrutineer's report?

The independent scrutineer's report on the ballot must state:

- the number of voting papers distributed;
- the number of voting papers returned to the scrutineer;
- the number of valid votes cast for each candidate in the election;
- the number of returned voting papers which were spoiled or otherwise invalid and;
- the name of the independent person appointed to undertake the storage, distribution and counting of ballot papers (see section The independent person) or, if no independent person was appointed, state that fact.

The report must also state:

- whether the scrutineer inspected the register of names and addresses of the members of the trade union;
- if he did make an inspection, whether in each case he was acting on a request by a member of the trade union or candidate or at his own instance;
- whether he declined to act on a request to inspect the register; and
- whether any inspection of the register revealed any matter which he considers should be drawn to the attention of the trade union in order to assist it in securing that the register is accurate and up-to-date.

However his report must not state the name of any member or candidate who requested that he make an inspection of the register.

The report is also required to state whether the independent scrutineer is satisfied that:

- there are no reasonable grounds for believing that the conduct of the ballot contravened any legislative requirements;
- security arrangements for the production, storage, distribution, return or other handling of the voting papers and for the counting of them were, so far as reasonably practicable, sufficient to minimise the risk of any unfairness or malpractice;
- he was able to carry out his functions without any interference which would cast reasonable doubt on his independence from the union; **and**
- the performance of the independent person or persons was satisfactory (where one or more persons other than the scrutineer are appointed to be an independent person).

If he is not satisfied on the above matters, the scrutineer's report is required to explain why that is the case.

Can members see the scrutineer's report?

The union must not publish the result of an election until it has received the scrutineer's report.

Having received the report, the union must:

within three months:

- **either** send a copy to every member of the union to whom it is reasonably practicable to do so,
- **or** notify the contents of the report to members in whatever way is normal when matters of general interest to all members need to be brought to their attention;
- ensure that any copy of the report sent out or notification of its contents is accompanied by a statement that the union will, on request, supply any union member with a copy of the report either free of charge or on payment of a reasonable fee which has been specified by the union;
- supply a copy of the report to any member who requests one and pays any specified fee.

THE INDEPENDENT PERSON

The law:

- requires that some aspects of a union election ballot which is required to be held by statute must be carried out by an "independent person" appointed by the union;
- sets out the requirements that must be satisfied in appointing an independent person.

What must the union do?

The union must:

- appoint one or more independent persons to carry out the duties described below;
- require the independent person to carry out his functions in such a way as to minimise the risk of any illegality, unfairness, or malpractice occurring;
- impose a duty of confidentiality (see section The duty of confidentiality) on the independent person;
- ensure that nothing in an independent person's terms of appointment could call into question his independence from the union;
- ensure that an independent person carries out his functions and that there is no interference with his doing so that could call into question his independence from the union
- comply with all reasonable requests made by an independent person in connection with the carrying out of his functions.

Who can be 'independent person'?

The law provides that a person is qualified to act as an independent person if:

- he is the scrutineer, or
- he is a person other than the scrutineer and the trade union has no grounds for believing either that (i) he will carry out his functions incompetently or (ii) his independence in relation to the union, or in relation to the election, could reasonably be called into question.

What must the independent person do?

The independent person (or persons) must be required by the union to:

- undertake the storage and distribution of the election voting papers;

- count the votes cast in the election; **and**
- send the voting papers back to the scrutineer (where the independent person doing the counting is not himself the scrutineer) as soon as reasonably practicable after the counting has been completed.

The independent person must also have regard to the duty of confidentiality which the union must impose on him, and which is automatically incorporated into the terms of his appointment.

Who can complain?

Any union member who believes that the union has not complied, or is not complying, with the statutory requirements concerning the appointment of the independent person may complain to the Certification Officer or to the court.

The procedures for complaint are described in the section on enforcement and complaints.

THE DUTY OF CONFIDENTIALITY

The law:

- requires a union to impose a duty of confidentiality in respect of the union's register on the independent scrutineer and independent person appointed to carry out functions in respect of union election ballots;
- automatically incorporates the duty of confidentiality into the appointment of the scrutineer.

What is the duty of confidentiality ?

It is a duty not to disclose, and to take all reasonable steps to ensure that no one else discloses, any name or address on the union's register of members' names and addresses, except in certain permitted circumstances.

The permitted circumstances are:

- where the member concerned consents;
- where disclosure is requested by the Certification Officer in the discharge of his functions or required by an inspector appointed by him;
- where disclosure is required to discharge the functions of the scrutineer or independent person;
- where disclosure is required for the purposes of criminal investigation or proceedings.

ENFORCEMENT AND COMPLAINTS

If a trade union fails to comply with the statutory requirements on elections, or on keeping a register of its members, a member of the union can make a complaint to the Certification Officer or to the court.

Who can complain?

Generally speaking, any union member or candidate in an election can make a complaint if he believes there is evidence that the union has broken, or will break, one or more of the statutory requirements on elections or maintaining registers.

If a member wishes to complain about an election which has already taken place, he can only do so if:

- he was also a member of the union at the time of the election concerned, **and**
- the complaint is made within a year of the election result being announced by the union.

All references to a union member in the remainder of this section include any individual who is or was a candidate in the election concerned.

To whom should a complaint be made?

A member may choose whether to complain to the certification officer or to the court but not to both in respect of the same complaint. The Certification Officer's procedures are less formal than a court's³

Whether a member complains to the Certification Officer or to the court, he will need to point to specific ways in which he believes his union has broken the legal requirements.

What is the role of the Certification Officer and what will happen if a complaint is made to him?

The Certification Officer is an independent authority appointed under statute. He has a number of functions which include receiving trade unions' accounts and reimbursing certain costs of unions' postal ballots as well as dealing with complaints about union elections required by law and about membership registers.

³ The address of the Certification Officer is given in Appendix 3

If the Certification Officer is able to deal with a complaint his first step will normally be to make enquiries into the matter about which the member is complaining. He is required to give the parties to the complaint an opportunity to present their case at a public hearing, though the parties can agree to the case being determined without a hearing. He is also required to reach a decision on the complaint if at all possible within six months, so if he asks the member or the union for information he will set a date by which he needs a reply. If the member or the union does not meet his deadline the Certification Officer may have to decide the case without having the information.

As a result of his enquiries the Certification Officer will give reasons for his decision whether to grant a declaration or not in writing and such reasons may be accompanied by written observations. He will also decide whether or not to make an order on the union to remedy a declared failure. The Certification Officer has the power to make an order to remedy the breach that has occurred.

Where a trade union refuses to comply with an order made by the Certification Officer, the applicant can apply to the court to enforce it as if it were an order of the court.

What happens if the member or the union wishes to appeal against the Certification Officer's decision?

An appeal can be made to the Employment Appeal Tribunal on questions of law only, not on questions of fact.

What happens if a complaint is made to the court?

The court, like the Certification Officer, can make a **declaration** saying that the union has broken certain of the statutory requirements on elections.

Where the court makes a declaration it will normally also make an **order** setting out action which the union must take to put right its infringement. The court will normally set a time-limit within which the union must carry out this action.

What can the court order a trade union to do?

The court can order a trade union:

- to hold a fresh election (or a first election where the complaint is that no election at all has been held). For example, the court might order a union to elect all the members of its executive again or just some. Similarly a union may have to ballot all of its members again or just certain sections of the membership;
- to take other steps to put right its infringement. A fresh election might not always be necessary or appropriate to put right a union's infringement. For example, the court may decide instead to order a union to update its membership register or to recount votes cast in an election;

- not to commit a similar infringement again. In some cases (for example, where the union's infringement was minor and did not affect the result of the election) the court may simply order the union to make sure that nothing similar happens in a future election.

If a union does not obey a court order within the time-limit given, **any member of the union who was also a member when the order was made** can ask the court to take further action. If the court finds that the union has not obeyed its order it will treat the union's disobedience as contempt of court. It is for the court to decide how to punish a contempt of court but it may impose a fine and, if the union continues to disobey, impose further fines or make an order for sequestration of the union's assets.

APPENDIX 1

Bodies specified by the Secretary of State as being qualified to undertake independent scrutiny of trade union elections:

Association of Electoral Administrators
PO Box 201
South Eastern
Liverpool
L16 5HH
<http://www.aea-elections.co.uk>

DRS Data Services Limited
1 Danbury Court
Linford Wood
Milton Keynes
Buckinghamshire
MK14 6LR
<http://www.drs.co.uk>

Electoral Reform Services Limited
The Election Centre
33 Clarendon Road
Hornsey
London
N8 ONW
<http://www.erbs.co.uk>

Involvement and Participation Association
42 Colebrooke Row
London
N1 8AF
<http://www.ipa-involve.com>

Opt2Vote Limited
25D Bishop Street
Londonderry
Northern Ireland
BT48 6PR
<http://www.opt2vote.com>

Popularis Limited
6 De Montfort Mews
Leicester
LE1 7EU
<http://www.popularis.org>

APPENDIX 2

General qualifications which must be satisfied to be eligible to act as an independent scrutineer of trade union elections.

The general qualifications which must be satisfied to be eligible to act as an independent scrutineer of trade union elections include those contained in Statutory Instrument No.1993/1909: ("the Trade Union Ballots and Elections (Independent Scrutineer Qualifications) Order 1993"). They allow unions to appoint certain persons to act as an independent scrutineer provided that the person concerned is:

- a solicitor with a current practising certificate issued from the Law Society of England and Wales⁴ or the Law Society of Scotland;
- an individual who is qualified to be an auditor of a trade union by virtue of section 34(1) of the Trade Union and Labour Relations (Consolidation) Act 1992. (This provides that anyone qualified to be a statutory auditor under Part 42 of the Companies Act 2006 may act as an auditor of a trade union);
- a partnership in which every partner falls within one of the two categories above; or
- a person (usually a corporate body) specified by name as qualified for appointment.

An individual or partnership will not be eligible to act as an independent scrutineer if he or a partner has been a member, officer⁵ or employee of the union proposing to hold the ballot in the 12 months preceding the date of the ballot.

An individual or partnership will not be eligible to act as an independent scrutineer if, in performing the functions required of a scrutineer as set out in the relevant legislation in respect of any ballot held after **1 February 1989**, he or a partner knowingly used, or permitted to be used, the services of a member, officer or employee of the union whose ballot was being scrutinised.

The Trade Union Ballots and Elections (Independent Scrutineer Qualifications) (Amendment) Order 2010. (**Statutory Instrument No. 2010/437**) amends the 1993 order by replacing the list of bodies specified by name as being qualified for appointment.

⁴ In England and Wales, the practical process of issuing practising certificates to solicitors is undertaken by the Solicitors Regulation Authority, an independent regulatory body of the Law Society (www.sra.org.uk).

⁵ For the purposes of appointment as an independent scrutineer, an auditor is not regarded as an officer of a union.

APPENDIX 3

USEFUL ADDRESSES

Addresses of Certification Officer and Employment Appeal Tribunal

Certification Officer for Trade Unions and Employers' Associations

22nd Floor
Euston Tower
286 Euston Road
London
NW1 3JJ
E-mail: info@certoffice.org
Tel: 020 7210 3734
Fax: 020 7210 3612

Further information about the powers and functions of the Certification Officer can be obtained direct from his office.

Employment Appeal Tribunal

Audit House
58 Victoria Embankment
London
EC4Y 0DS
Tel: 020 7273 1041
