



Trade Union and Labour Relations (Consolidation) Act 1992

1992 CHAPTER 52

PART VI

ADMINISTRATIVE PROVISIONS

The Certification Officer

254 The Certification Officer.

- (1) There shall continue to be an officer called the Certification Officer.
- (2) The Certification Officer shall be appointed by the Secretary of State after consultation with ACAS [^{F1}(but is not subject to directions of any kind from any Minister of the Crown as to the manner in which he is to exercise his functions)].
- (3) The Certification Officer may appoint one or more assistant certification officers and shall appoint an assistant certification officer for Scotland.
- (4) The Certification Officer may delegate to an assistant certification officer such functions as he thinks appropriate, and in particular may delegate to the assistant certification officer for Scotland such functions as he thinks appropriate in relation to organisations whose principal office is in Scotland.

References to the Certification Officer in enactments relating to his functions shall be construed accordingly.

- (5) ACAS shall provide for the Certification Officer the requisite staff (from among the officers and servants of ACAS) and the requisite accommodation, equipment and other facilities.

^{F2}[(5A) ^{F3}...ACAS shall pay to the Certification Officer such sums as he may require for the performance of any of his functions.]

Changes to legislation: Trade Union and Labour Relations (Consolidation) Act 1992, Cross Heading: The Certification Officer is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

^{F4}(6)

Textual Amendments

- F1** Words in s. 254(2) inserted (1.4.2022) by Trade Union Act 2016 (c. 15), ss. 16, 25(1); S.I. 2021/1373, reg. 4(a)
- F2** S. 254(5A) inserted (30.8.1993) by 1993 c. 19, s. 49(2), Sch. 8 para.78; S.I. 1993/1908, art. 2(1), Sch. 1
- F3** Words in s. 254(5A) omitted (1.4.2022) by virtue of Trade Union Act 2016 (c. 15), s. 25(1), Sch. 4 para. 15(2); S.I. 2021/1373, reg. 4(e)
- F4** S. 254(6) omitted (1.4.2022) by virtue of Trade Union Act 2016 (c. 15), s. 25(1), Sch. 4 para. 15(3); S.I. 2021/1373, reg. 4(e)

255 Remuneration, &c. of Certification Officer and assistants.

- (1) ACAS shall pay to the Certification Officer and any assistant certification officer such remuneration and travelling and other allowances as may be determined by the Secretary of State.
- (2) The Secretary of State may pay, or make provision for payment, to or in respect of the Certification Officer and any assistant certification officer such pension, allowance or gratuity on death or retirement as he may determine.
- (3) Where a person ceases to be the Certification Officer or an assistant certification officer otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, he may make him a payment of such amount he may determine.
- (4) The approval of the Treasury is required for any determination by the Secretary of State under this section.

256 Procedure before the Certification Officer.

- (1) Except in relation to matters as to which express provision is made by or under an enactment, the Certification Officer may regulate the procedure to be followed—
 - (a) on any application or complaint made to him, ^{F5}...
 - (b) where his approval is sought with respect to any matter^{F6}, or
 - (c) determining whether to make a declaration or ^{F7}order under section 24B, 32ZC, 45C, 55, 72A, 80, 82 or 103 or under paragraph 5 of Schedule A3]].
- ^{F8}(2) 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.
- (2A) Provision under subsection (2) 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.]

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- (3) The Secretary of State may, with the consent of the Treasury, make a scheme providing for the payment by the Certification Officer to persons of such sums as may be specified in or determined under the scheme in respect of expenses incurred by them for the purposes of, or in connection with, their attendance at hearings held by him in the course of carrying out his functions.

^{F9}(4)

Textual Amendments

- F5** Word in s. 256(1)(a) omitted (1.6.2016) by virtue of [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\)](#), **ss. 43(7)(a)**, 45(1)(c); S.I. 2015/717, art. 4(b)
- F6** S. 256(1)(c) and preceding word inserted (1.6.2016) by [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\)](#), **ss. 43(7)(b)**, 45(1)(c); S.I. 2015/717, art. 4(b)
- F7** Words in s. 256(1)(c) substituted (1.4.2022) by [Trade Union Act 2016 \(c. 15\)](#), s. 25(1), **Sch. 4 para. 16**; S.I. 2021/1373, reg. 4(e)
- F8** S. 256(2)(2A) substituted for s. 256(2) (25.10.1999) by [1999 c. 26](#), s. 29, **Sch. 6 paras. 1, 22**
- F9** S. 256(4) repealed (30.8.1993) by [1993 c. 19](#), s. 51, **Sch. 10**; S.I. 1993/1908, art. 2(1), **Sch. 1**

^{F10}~~256Z~~ Striking out

- (1) At any stage of proceedings on an application or complaint made to the Certification Officer, he may—
- order the application or complaint, or any response, to be struck out on the grounds that it is scandalous, vexatious, has no reasonable prospect of success or is otherwise misconceived,
 - order anything in the application or complaint, or in any response, to be amended or struck out on those grounds, or
 - 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 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 section may be made on the Certification Officer's own initiative and may also be made—
- 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
 - 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 subsection (1).
- (4) Before making an order under this section, 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.

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- (5) Subsection (4) shall not be taken to require the Certification Officer to send a notice under that subsection if the party against whom it is proposed that the order under this section should be made has been given an opportunity to show cause orally why the order should not be made.
- (6) Nothing in this section prevents the Certification Officer from making further provision under section 256(1) about the striking out of proceedings on any application or complaint made to him.
- (7) An appeal lies to the Employment Appeal Tribunal on any question of law arising from a decision of the Certification Officer under this section.
- (8) In this section—
- “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 application or complaint;
- “respondent” means any trade union, or other body, that has such a right.]

Textual Amendments

F10 S. 256ZA inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 48, 59(2)-(4)**; [S.I. 2005/872](#), **art. 4**, [Sch.](#) (with [arts. 6-21](#))

[^{F11}256A Vexatious litigants.

- (1) The Certification Officer may refuse to entertain any application or complaint made to him under a provision of Chapters III to VIIA of Part I by a vexatious litigant.
- (2) The Certification Officer must give reasons for such a refusal.
- (3) Subsection (1) does not apply to a complaint under section 37E(1)(b) or to an application under section 41.
- (4) For the purposes of subsection (1) a vexatious litigant is a person who is the subject of—
- ^{F12}
 - a civil proceedings order or an all proceedings order which is made under section 42(1) of the [^{F13}Senior Courts Act 1981] and which remains in force,
 - an order which is made under section 1 of the ^{M1}Vexatious Actions (Scotland) Act 1898 [^{F14}or a vexatious litigation order made under section 100 of the Courts Reform (Scotland) Act 2014], or
 - an order which is made under section 32 of the ^{M2}Judicature (Northern Ireland) Act 1978.]

Textual Amendments

F11 Ss. 256A, 256B inserted (25.10.1999) by [1999 c. 26, s. 29, Sch. 6 paras. 1, 23](#); [S.I. 1999/2830](#), **art. 2(1)**, **Sch. 1 Pt. I** (with [Sch. 3 para. 5](#))

F12 S. 256A(4)(a) repealed (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 57(2), 59(2)-(4)**, **Sch. 2**; [S.I. 2005/872](#), **art. 4**, [Sch.](#) (with [arts. 6-21](#))

F13 S. 256A(4)(b): words substituted wherever they occur in any enactment (1.10.2009) by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 59, 148**, **Sch. 11 para. 1**; [S.I. 2009/1604](#), **art. 2(b)(d)**

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F14 Words in s. 256A(4)(c) inserted (S.) (28.11.2016) by [The Courts Reform \(Scotland\) Act 2014 \(Relevant Officer and Consequential Provisions\) Order 2016 \(S.S.I. 2016/387\)](#), art. 1, **sch. 2 para. 2**

Marginal Citations

M1 1898 c. 35.

M2 1978 c. 23.

[^{F15}256B Vexatious litigants: applications disregarded.

- (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 section 256A(1).
- (2) The relevant enactments are sections 26(8), 31(7), 45C(5B), 56(8), 72A(10), 81(8) and 108A(13).]

Textual Amendments

F15 Ss. 256A, 256B inserted (25.10.1999) by [1999 c. 26, s. 29, Sch. 6 paras. 1, 23; S.I. 1999/2830](#), art. 2(1), **Sch. 1 Pt. I** (with [Sch. 3 para. 5](#))

[^{F16}256C Investigatory powers

Schedule A3 (Certification Officer: investigatory powers) shall have effect.]

Textual Amendments

F16 S. 256C inserted (8.12.2021 for specified purposes, 1.4.2022 in so far as not already in force) by [Trade Union Act 2016 \(c. 15\)](#), **ss. 17(1), 25(1)**; [S.I. 2021/1373](#), regs. 3(a), 4(b) (with regs. 5-14)

[^{F17}256D Power to impose financial penalties

Schedule A4 (Certification Officer: power to impose financial penalties) shall have effect.]

Textual Amendments

F17 S. 256D inserted (8.12.2021 for specified purposes, 1.4.2022 in so far as not already in force) by [Trade Union Act 2016 \(c. 15\)](#), **ss. 19(1), 25(1)** (with s. 19(3)); [S.I. 2021/1373](#), regs. 3(b), 4(c)

257 Custody of documents submitted under earlier legislation.

- (1) The Certification Officer shall continue to have custody of the annual returns, accounts, copies of rules and other documents submitted for the purposes of—
- (a) the Trade Union Acts 1871 to 1964,
 - (b) the ^{M3}Industrial Relations Act 1971, or
 - (c) the ^{M4}Trade Union and Labour Relations Act 1974,

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of which he took custody under section 9 of the ^{M5}Employment Protection Act 1975.

- (2) He shall keep available for public inspection (either free of charge or on payment of a reasonable charge) at all reasonable hours such of those documents as were available for public inspection in pursuance of any of those Acts.

Marginal Citations

M3 1971 c. 72.

M4 1974 c. 52.

M5 1975 c. 71.

[^{F18}257A] Levy payable to Certification Officer

- (1) The Secretary of State may by regulations make provision for the Certification Officer to require trade unions and employers' associations (“relevant organisations”) to pay a levy to the Officer.
- (2) The regulations must require the Certification Officer, in determining the amounts to be levied, to aim to ensure that the total amount levied over any period of three years does not exceed the total amount of the Officer's expenses over that period that are referable to specified functions of the Officer.
- (3) The regulations may make provision for determining what things count as expenses of the Certification Officer for the purposes of provision made by virtue of subsection (2), and may in particular provide for the expenses to be treated as including—
- (a) expenses incurred by ACAS in providing staff, accommodation, equipment and other facilities under section 254(5), or
 - (b) expenses in respect of which payments are made under section 255(1) or (2).
- (4) The regulations may provide for the Certification Officer to determine the amount of levy payable by a relevant organisation by reference to specified criteria, which may include—
- (a) the number of members or the amount of income that the organisation has;
 - (b) whether the organisation is—
 - (i) a federated trade union,
 - (ii) a trade union that is not a federated trade union,
 - (iii) a federated employers' association, or
 - (iv) an employers' association that is not a federated employers' association;
 - (c) the different proportions of the Officer's expenses that are referable to—
 - (i) functions in relation to federated trade unions,
 - (ii) functions in relation to trade unions that are not federated trade unions,
 - (iii) functions in relation to federated employers' associations, and
 - (iv) functions in relation to employers' associations that are not federated employers' associations.
- (5) The regulations may provide—

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- (a) for the levy not to be payable, or for a reduced amount to be payable, in specified cases or in cases determined by the Certification Officer in accordance with the regulations;
 - (b) for the intervals at which the levy is to be paid;
 - (c) for interest to be payable where a payment is not made by the required date;
 - (d) for an amount levied to be recoverable by the Certification Officer as a debt.
- (6) The regulations may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (7) In this section—
- “federated employers' association” has the same meaning as in section 135;
 - “federated trade union” has the same meaning as in section 118;
 - “specified” means specified in the regulations.
- (8) Before making regulations under this section the Secretary of State must consult relevant organisations and ACAS.
- (9) No regulations under this section shall be made unless a draft of them has been laid before Parliament and approved by a resolution of each House of Parliament.
- (10) The Certification Officer shall pay into the Consolidated Fund amounts received by virtue of this section.]

Textual Amendments

F18 S. 257A inserted (8.12.2021) by Trade Union Act 2016 (c. 15), ss. 20(1), 25(1); S.I. 2021/1373, reg. 3(c)

258 Annual report and accounts.

- (1) The Certification Officer shall, as soon as practicable after the end of each [^{F19} financial year], make a report of his activities during that year to ACAS and to the Secretary of State.
- [^{F20}(1A) A report under this section shall include details of—
- (a) amounts levied by the Certification Officer by virtue of section 257A in the year in question, and
 - (b) how the amounts were determined.]

The Secretary of State shall lay a copy of the report before each House of Parliament and arrange for it to be published.

- (2) The accounts prepared by ACAS in respect of any financial year shall show separately any sums disbursed to or on behalf of the Certification Officer in consequence of the provisions of this Part.

Textual Amendments

F19 Words in s. 258(1) substituted (25.10.1999) by 1999 c. 26, s. 29, Sch. 6, paras. 1, 24; S.I. 1999/2830, art. 2(1)(2), Sch. 1 Pt. I (with Sch. 3 para. 5)

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F20 S. 258(1A) inserted (8.12.2021) by Trade Union Act 2016 (c. 15), **ss. 20(2), 25(1)**; S.I. 2021/1373, reg. 3(c)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 212A(1)(zb) inserted by [2023 c. 46 Sch. para. 1](#)