



Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014

2014 CHAPTER 4

PART 3

TRADE UNIONS' REGISTERS OF MEMBERS

42 Investigatory powers

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.
- (2) After section 24ZG (which is inserted by section 41) insert—

“24ZH Power of Certification Officer to require production of documents etc

- (1) If the Certification Officer thinks there is good reason to do so, the Officer—
 - (a) may give directions to a trade union, or a branch or section of a trade union, requiring it to produce such relevant documents as are specified in the directions;
 - (b) may authorise a member of the Officer's staff or any other person (“an authorised person”), on producing (if so required) evidence of that authority, to require a trade union, or a branch or section of a trade union, to produce immediately to the authorised person such relevant documents as that person specifies.
- (2) “Relevant documents”, in relation to a trade union or a branch or section of a trade union, means—
 - (a) the register of the names and addresses of the trade union's members, and

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- (b) documents of any other description which the Certification Officer or authorised person considers may be relevant to whether the union has failed to comply with any of the requirements of section 24(1) (duties regarding the register of members).
- (3) Directions under subsection (1)(a) must specify the time and place at which the documents are to be produced.
- (4) Where the Certification Officer, or an authorised person, has power to require the production of documents by virtue of subsection (1), the Officer or authorised person has the like power to require production of those documents from any person who appears to the Officer or authorised person to be in possession of them.
- (5) The power under this section to require the production of documents includes the power—
 - (a) if the documents are produced—
 - (i) to take copies of them or extracts from them;
 - (ii) to require the person by whom they are produced to provide an explanation of any of them;
 - (iii) to require any person who is or has been an official or agent of the trade union to provide an explanation of any of them;
 - (b) if the documents are not produced, to require the person who was required to produce them to state, to the best of the person's knowledge and belief, where they are.
- (6) For the purposes of subsection (5)(a)(iii), “agent” includes an assurer appointed by the trade union under section 24ZB.
- (7) For supplementary provision, see section 24ZK.

24ZI Investigations by inspectors

- (1) The Certification Officer may appoint one or more members of the Officer's staff or other persons as an inspector or inspectors to—
 - (a) investigate whether a trade union has failed to comply with any of the requirements of section 24(1) (duties regarding the register of members), and
 - (b) report to the Officer in such manner as the Officer may direct.
- (2) The Certification Officer may only make such an appointment if it appears to the Officer that there are circumstances suggesting that the union has failed to comply with a requirement of section 24(1), 24ZA or 24ZB (duties etc relating to the register of members).
- (3) Where any person appears to the inspector or inspectors to be in possession of information relating to a matter considered by the inspector or inspectors to be relevant to the investigation, the inspector or inspectors may require the person—
 - (a) to produce to the inspector or inspectors any relevant documents relating to that matter,
 - (b) to attend before the inspector or inspectors, and

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- (c) otherwise to give the inspector or inspectors all assistance in connection with the investigation which the person is reasonably able to give.
- (4) “Relevant documents” means—
 - (a) the register of the names and addresses of the trade union's members, and
 - (b) documents of any other description which the inspector or inspectors consider may be relevant to whether the union has failed to comply with any of the requirements of section 24(1).
- (5) Where a person who is not a member of the Certification Officer's staff is appointed as an inspector under this section, there is incorporated in the appointment the duty of confidentiality as respects the register of the names and addresses of the trade union's members.
- (6) The duty of confidentiality as respects that register is a duty which the inspector owes to the Certification Officer—
 - (a) not to disclose any name or address in the register of the names and addresses of the union's members except in permitted circumstances, and
 - (b) to take all reasonable steps to secure that there is no disclosure of any such name or address by another person except in permitted circumstances.
- (7) The circumstances in which disclosure of a member's name or address is permitted are—
 - (a) where the member consents,
 - (b) where it is required or requested by the Certification Officer for the purposes of the discharge of any of the Officer's functions,
 - (c) where it is required for the purposes of the discharge of any of the functions of the inspector or any other inspector appointed by the Officer,
 - (d) where it is required for the purposes of the discharge of any of the functions of an assurer appointed under section 24ZB, or
 - (e) where it is required for the purposes of the investigation of crime or criminal proceedings.
- (8) For supplementary provision, see section 24ZK.

24ZJ Inspectors' reports etc

- (1) An inspector or inspectors appointed under section 24ZI—
 - (a) may make interim reports to the Certification Officer,
 - (b) must make such reports if so directed by the Officer, and
 - (c) on the conclusion of the investigation, must make a final report to the Officer.
- (2) A report under subsection (1) must be in writing.
- (3) An inspector or inspectors—
 - (a) may at any time inform the Certification Officer of any matters coming to their knowledge as a result of the investigation, and

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- (b) must do so if the Officer so directs.
- (4) The Certification Officer may direct an inspector or inspectors—
 - (a) to take no further steps in the investigation, or
 - (b) to take only such further steps as are specified in the direction.
- (5) Where such a direction is made, the inspector or inspectors are not required under subsection (1)(c) to make a final report to the Certification Officer unless the Officer so directs.

24ZK Sections 24ZH and 24ZI: supplementary

- (1) Nothing in section 24ZH or 24ZI requires or authorises anyone to require—
 - (a) the disclosure by a person of information which the person would in an action in the court be entitled to refuse to disclose on grounds of legal professional privilege, or
 - (b) the production by a person of a document which the person would in such an action be entitled to refuse to produce on such grounds.
- (2) But a lawyer may be required under section 24ZH or 24ZI to disclose the name and address of the lawyer's client.
- (3) A person is not excused from providing an explanation or making a statement in compliance with a requirement imposed under section 24ZH(5) or 24ZI(3) on the ground that to do so would tend to expose the person to proceedings for an offence.
- (4) But an explanation so provided or a statement so made may only be used in evidence against the person by whom it is provided or made on a prosecution for an offence where, in giving evidence, the person makes a statement inconsistent with it.
- (5) In this section and in sections 24ZH and 24ZI—
 - (a) references to documents include information recorded in any form, and
 - (b) in relation to information recorded otherwise than in legible form, references to its production are to the production of a copy of the information in legible form.”
- (3) In section 24A(4)(b) (securing confidentiality of register during ballots), after “where it is” insert “ required or ”.

Commencement Information

II S. 42 in force at 1.6.2016 by S.I. 2015/717, art. 4(a)

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