



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

2014 CHAPTER 4

PART 3

TRADE UNIONS' REGISTERS OF MEMBERS

43 Enforcement

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.
- (2) After section 24A (securing confidentiality of register during ballots) insert—

“24B Enforcement of sections 24 to 24ZC by Certification Officer

- (1) Where the Certification Officer is satisfied that a trade union has failed to comply with any of the requirements of section 24, 24ZA, 24ZB or 24ZC (duties etc relating to the register of members), the Officer may make a declaration to that effect.
- (2) Before making such a declaration, the Certification Officer—
 - (a) may make such enquiries as the Officer thinks fit,
 - (b) must give the union an opportunity to make written representations, and
 - (c) may give the union an opportunity to make oral representations.
- (3) If the Certification Officer makes a declaration it must specify the provisions with which the union has failed to comply.
- (4) Where the Certification Officer makes a declaration and is satisfied—

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- (a) that steps have been taken by the union with a view to remedying the declared failure or securing that a failure of the same or any similar kind does not occur in future, or
 - (b) that the union has agreed to take such steps,the Officer must specify those steps in the declaration.
- (5) Where a declaration is made, the Certification Officer must give reasons in writing for making the declaration.
- (6) Where a declaration is made, the Certification Officer must also make an enforcement order unless the Officer considers that to do so would be inappropriate.
- (7) An “enforcement order” is an order imposing on the union one or both of the following requirements—
 - (a) to take such steps to remedy the declared failure, within such period, as may be specified in the order;
 - (b) to abstain from such acts as may be so specified with a view to securing that a failure of the same or a similar kind does not occur in future.
- (8) Where, having given the union an opportunity to make written representations under subsection (2)(b), the Certification Officer determines not to make a declaration under subsection (1), the Officer must give the union notice in writing of that determination.
- (9) Where the Certification Officer requests a person to provide information to the Officer in connection with enquiries under this section, the Officer must specify the date by which that information is to be provided.
- (10) Where the information is not provided by the specified date, the Certification Officer must proceed with determining whether to make a declaration under subsection (1) unless the Officer considers that it would be inappropriate to do so.
- (11) A declaration made by the Certification Officer under this section may be relied on as if it were a declaration made by the court.
- (12) An enforcement order made by the Certification Officer under this section may be enforced in the same way as an order of the court.
- (13) Where an enforcement order has been made, a person who is a member of the union and was a member at the time it was made is entitled to enforce obedience to the order as if the order had been made on an application by that person.

24C Enforcement of sections 24ZH and 24ZI by Certification Officer

- (1) Where the Certification Officer is satisfied that a trade union or any other person has failed to comply with any requirement imposed under—
 - (a) section 24ZH (power of Certification Officer to require production of documents etc), or
 - (b) section 24ZI (investigations by inspectors),

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- the Officer may make an order requiring the trade union or person to comply with the requirement.
- (2) Before making such an order, the Certification Officer must give the trade union or person an opportunity to be heard.
- (3) In the case of a failure to comply with a requirement imposed under section 24ZH or 24ZI to produce a document, the Certification Officer may make an order only if the Officer is satisfied that—
- (a) the document is in the possession of the union or person, and
 - (b) it is reasonably practicable for the union or person to comply with the requirement.
- (4) In the case of a failure to comply with any other requirement imposed under section 24ZH or 24ZI, the Certification Officer may make an order only if the Officer is satisfied that it is reasonably practicable for the union or person to comply with the requirement.
- (5) The order must specify—
- (a) the requirement with which the trade union or person has failed to comply, and
 - (b) the date by which the trade union or person must comply.
- (6) An order made by the Certification Officer under this section may be enforced in the same way as an order of the court.”
- (3) In section 24(6) (remedies for failure to comply with that section), after “court)” insert “; see also the powers of the Certification Officer under section 24B to make a declaration and an enforcement order ”.
- (4) In section 25 (remedy for failure: application to the Certification Officer), after subsection (6) insert—
- “(6A) For the purposes of subsection (6) the circumstances in which it is not reasonably practicable to determine an application within that time frame may include, in particular, where delay is caused by the exercise of the powers under section 24ZH or 24ZI (powers to require production of documents etc and to appoint inspectors).”
- (5) In section 26 (remedy for failure: application to the court), after subsection (8) insert—
- “(9) Where a person applies under this section in relation to an alleged failure and the Certification Officer has made a declaration regarding that failure under section 24B, the court must have due regard to the declaration and any order, observations or reasons made or given by the Officer under that section regarding that failure and brought to the court's notice.”
- (6) In section 45D (appeals from Certification Officer), after “section” insert “ 24B, 24C, ”.
- (7) In section 256(1) (procedure before the Certification Officer)—
- (a) omit the “or” at the end of paragraph (a), and
 - (b) in paragraph (b) after “matter” insert “, or
 - (c) determining whether to make a declaration or enforcement order under section 24B or an order under section 24C”.

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Commencement Information

II S. 43 in force at 1.6.2016 by S.I. 2015/717, **art. 4(b)**

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