



Trade Union Act 2016

2016 CHAPTER 15

Certification Officer

18 Enforcement by Certification Officer of new annual return requirements

(1) After section 32ZB of the 1992 Act (inserted by section 12 above) insert—

“32ZC Enforcement of sections 32ZA and 32ZB 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 32ZA or 32ZB, 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—
 - (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.

Changes to legislation: There are currently no known outstanding effects for the Trade Union Act 2016, Section 18. (See end of Document for details)

- (7) An “enforcement order” is an order requiring the union to take such steps to remedy the declared failure, within such period, as may be specified in the order.
 - (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 by the Officer 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.”
- (2) Subsection (1) applies only to returns for periods that begin after the day on which this section comes into force.
 - (3) In section 45 of the 1992 Act (offences), in subsection (1), for “sections 32” substitute “ section 32 (but not sections 32ZA and 32ZB) and sections 32A ”.
 - (4) In section 45D of that Act (appeals from Certification Officer), after “31” insert “ , 32ZC ”.

Commencement Information

II S. 18 in force at 1.3.2017 by S.I. 2017/139, reg. 2(m)

Changes to legislation:

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