



# 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.

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*Status: This is the original version (as it was originally enacted).*

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- (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”.